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**The limits to change:
liberal democracy and the problem of
political agency**

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Abstract

This thesis explores the limits to purposive change in liberal democracies. Its aim is to provide new analytical tools and concepts to understand better the basis of liberal democracy's legitimacy, the mechanisms and limitations of political agency at work in it, and the ways in which societal change is delimited and channelled in what is today the most dominant form of political order.

The thesis contains three conceptual innovations. The first concerns the nature of liberal democracy, which is shown to involve an 'epistemic' dimension of legitimacy on which the system's stability relies. This explanatory account of legitimacy argues that in a modern democracy the paradoxical relation of the people to itself as both ruler and ruled can only be stabilised when both sides of the equation refer to the same 'independent' reality – a reality that has to be generated outside their precarious relationship and hence (for example) in the capitalist market economy. The second innovation regards an analytical distinction between three fundamental 'modes' of political agency – decision, choice and solution – whose deployment is strictly controlled by the systemic requirements of 'epistemic legitimacy'. The result is shown to be an 'agentic deadlock' in liberal democracy, which inhibits purposive societal change. The third innovation concerns the very idea of 'change' itself. Based on Wittgenstein's notion of grammar a concept of transformation is developed, which allows us to account for the subtle and long-term changes in the discursive structure of liberal-democratic societies.

After comparing these conceptual innovations with the dominant aggregative, deliberative and radical approaches to democratic theory, the thesis concludes with a suggestion for an institutional innovation that might help break the agentic deadlock in liberal democracy.

Key words: liberal democracy; agency; decision; choice; transformation; change; governance; legitimacy; direct democracy; radical democracy; deliberative democracy; capitalism; political paradox; democratic innovation; initiative; referendum.

For Julia

I'd love to change the world,

But I don't know what to do.

So I'll leave it up to you.

Ten Years After

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Contents

List of Tables and Figures	9
Introduction	10
<u>Part I: Liberal Democracy and the Limits to Change</u>	<u>25</u>
Chapter 1: Understanding Liberal Democracy	25
1.1. The problem of political legitimacy	26
1.1.1. The normative approach to legitimacy	27
1.1.2. The explanatory approach to legitimacy	34
1.1.3. Marxism and political legitimacy	36
1.2. ‘Ontological’ and ‘epistemic’ legitimacy	39
1.3. The modern crisis of ontological legitimacy: the ‘paradox of politics’	42
1.3.1. The waning of medieval legitimacy	42
1.3.2. The paradox of modern politics	44
1.4. The ‘perceptual regime’ of liberal democracy	53
1.4.1. The ‘epistemic bond’	55
1.4.2. Opacity and transparency	65
1.4.3. Axes of gaze	75
1.5. The ‘limits to change’: a first approximation	82
Chapter 2: Change and Transformation	85
2.1. Change and ‘epistemic legitimacy’	85
2.2. Rupture-in-continuity: the paradox of transformation	88
2.2.1. Wittgenstein on ‘grammar’	89
2.2.2. Political grammar and the social imaginary	94
2.2.3. How is grammar changed? The logic of transformation	110
2.3. Transformation and the problem of agency	115
2.3.1. Example 1: Tobacco’s tipping point	117
2.3.2. Example 2: Nuclear power in Austria	122

Chapter 3: Governing Agency – Decision, Choice, Solution	127
3.1. Conceptions, forms and modes of agency	128
3.2. ‘Agentic operators’: decision, choice, solution	135
3.2.1. Decision	136
3.2.2. Solution	141
3.2.3. Choice	144
3.3. ‘Governing agency’: epistemic legitimacy and agentic operators	149
3.4. The ‘transformative capacities’ of agentic operators	161
3.4.1. The transformative capacities of ‘decision’	161
3.4.2. The transformative capacities of ‘choice’	164
3.4.3. The transformative capacities of ‘solution’	173
3.5. ‘Agentic deadlock’ and the simulation of change	177
 Part II: Democratic Theory and Political Agency	 186
 Chapter 4: Aggregative and Deliberative Democracy and Political Agency	 188
4.1. Aggregative democratic theory	188
4.1.1. Interpreting the aggregative model of democracy	192
4.2. Deliberative democracy	201
4.2.1. Deliberation as political agency: ‘finding democratic solutions’	208
4.2.2. Deliberative democracy versus ‘deliberative ethos’	216
 Chapter 5: Radical Democracy and Political Agency	 224
5.1. The theory of hegemony	227
5.1.1. Hegemony as a political logic	232
5.1.2. Hegemony and democracy	237
5.1.3. The limitations of hegemony theory	244
5.1.3.1. Hegemony or grammar?	244
5.1.3.2. The democratic deficit in hegemony theory	248
5.2. The theory of agonistic pluralism	251

Chapter 6: The White Door	259
6.1. The problem: breaking the agentic deadlock	259
6.2. Five requirements for democratic transformation	264
6.3. Transformative requirements and democratic theory	268
6.4. The White Door	272
6.4.1. The transformative capacity of the White Door	278
6.4.2. The White Door and agentic deadlock	289
6.4.3. The White Door in a comparative perspective	292
6.4.3.1. Citizens' initiatives	294
6.4.3.2. Citizens' petitions	303
6.4.3.3. Three-stage citizens' legislation	307
6.5. The White Door reconsidered	311
 Bibliography	 314

List of tables and figures

Tables

<i>Table 3.1:</i>	Typology of agentic operators	136
<i>Table 6.1:</i>	Democratic theories and requirements of transformation	268
<i>Table 6.2:</i>	A comparison of types of multi-stage citizens' legislation	293

Figures

<i>Figure 1.1:</i>	Medieval legitimacy	28
<i>Figure 1.2:</i>	Modern legitimacy	29
<i>Figure 1.3:</i>	Liberal legitimacy according to Marx and Engels	37
<i>Figure 1.4:</i>	The political paradox of modernity	46
<i>Figure 1.5:</i>	The political bond	56
<i>Figure 1.6:</i>	Axis of gaze without epistemic bond	58
<i>Figure 1.7:</i>	The epistemic bond in liberal democracy	59
<i>Figure 1.8:</i>	Epistemic legitimacy in liberal democracy	72
<i>Figure 1.9:</i>	Scenario A: market dominates reality	75
<i>Figure 1.10:</i>	Scenario B: state dominates reality	76
<i>Figure 2.1:</i>	Political imaginary and political grammar	102
<i>Figure 3.1:</i>	The agentic shield of the state	155
<i>Figure 3.2:</i>	The agentic shield of the market	156
<i>Figure 3.3:</i>	The agentic shield of 'governance'	160
<i>Figure 3.4:</i>	Agentic deadlock in liberal democracy	181
<i>Figure 6.1:</i>	The stages of the White Door mechanism	282

Introduction

When I was a young environmentalist, my understanding of the world we live in was heavily influenced by a book that someone gave me for my sixteenth birthday: *Beyond the Limits: Global Collapse or a Sustainable Future* (Meadows *et al.* 1992). It was a reassessment of the authors' original report *The Limits to Growth* (Meadows *et al.* 1972), twenty years after its first publication, and it basically warned that if global economic and population growth continued unabated, ecological and biophysical limits would soon be reached that could plunge both the global economy and the biosphere into severe and potentially irreversible crises. The effect of the book on me as a teenager was a sense of estrangement from the seemingly sleep-walking society that surrounded me, and a sense of urgency that something needed to be done. It instilled a profound feeling in me that the purpose of my generation would not be to amass more material wealth, but to radically transform our productive system, that is, capitalism itself, and turn it into something completely different, without, however, sacrificing democracy. I was convinced that the purpose of my generation would be radical change, not linear progress.

Little wonder, then, that I embarked on a career as a professional environmentalist and I have spent most of my adult life to this point as a campaigner for *Friends of the Earth* and other environmental networks. I soon found out, however, that my teenage enthusiasm for change was hard to sustain in the real world of liberal-democratic politics. This was not so much because I encountered fierce resistance in politicians and business leaders; on the contrary: almost everybody was paying lip-service to the necessity of fundamental change, but change itself was infinitely postponed. Perhaps my most important insight as an environmental campaigner, then, was that change in a liberal democracy is a difficult and

evasive concept and an even more difficult and evasive goal. On the one hand, I noted that simple and powerful demands tend to get diffused and weakened in complex and energy-consuming processes of ‘public participation’, and I fully confirm the assessment of Daniel Fiorino, a former official of the US Environmental Protection Agency, that such exercises are often undertaken to ‘[...] legitimate decisions already made, warn the agency of potential political and legal obstacles, satisfy legal or procedural requirements, and defuse the opposition’ (Fiorino 1990: 230-1, cited in Smith 2009: 18). On the other hand, I saw that the impetus for change gets routinely deflected from the political level to that of the individual, that is, to that of the consumer. Hence, agents for change, such as environmental campaign groups, spend enormous amounts of time and energy trying to change the behaviour of individual consumers, hoping that the aggregate of such changes will eventually have an impact on the broader scheme of things. This hope, however, seems to be substantially undermined by the fact that the citizen and the consumer, despite their inhabiting the same body, often behave like different people altogether, as Mark Sagoff pointed out as long ago as 1988:

I love my car; I hate the bus. Yet I vote for candidates who promise to tax gasoline to pay for public transportation. [...] The political causes I support seem to have little or no basis in my interests as a consumer, because I take different points of view when I vote and when I shop. I have an “Ecology Now” sticker on a car that drips oil everywhere it’s parked. (Sagoff 1988: 52-53)

The rational self-interest of the consumer thus seems systematically to get in the way of the common good the citizen envisages. And the citizen seems to have few occasions for the advancement of her vision of the common good other than the periodic elections of her representatives. Her representatives, in turn, seem to be in a weak position to bring about the change she desires for reasons of the systemic imperatives of their office which curtail their options for political action (imperatives that will be investigated more closely in this

thesis). Agency for change thus seems to be caught in a maze of invisible structures. Change itself appears to be circumscribed by structural limits that channel it into certain well-guarded avenues and take away its disruptive potential. This at least was the strong impression I had after more than a decade of professional environmentalism.

Almost twenty years after my first encounter with the *Limits to Growth*, the perception that industrialised societies – liberal democratic or not – have to radically alter their course of development in order to avert severe ecological and societal crises has become a position so widespread that the pressing question now seems not to be whether change is necessary but *how to make it happen*. The new scientific consensus, of sorts, over anthropogenic climate change has contributed towards this increased sense of urgency (Skrimshire 2010: 2). In order to avert dangerous and disruptive climate change, absolute reductions in global carbon emissions of 50-85 per cent are required by the year 2050, according to the Intergovernmental Panel on Climate Change (IPCC 2007, Table SPM 6). The challenge such a reduction poses to industrialised societies is monumental: while in 2007 each US Dollar spent in the world caused an emission of 768 g of CO₂, this number has to drop to just 6 g by 2050, if an annual economic growth of 2 per cent is assumed (Jackson 2009: 80). Other factors, too, like the imminent peak of global oil production, the global scarcity of fresh water and the surging prices of food due to climatic and economic pressures mean that new forms of production and cooperation have to be found that could alter the very nature of advanced industrialised societies in their entirety. Radical change may well come about in any case, but the question for modern democratic societies is whether they are able to find ways to steer these changes in deliberately chosen, positive and peaceful directions. An important prerequisite for finding an answer to this question is thus to analyse the ways in which political agency and its capacity to enact purposive and

substantial change is delimited and organised in liberal democratic societies. The urgent need for an answer to these questions constitutes the motivational starting point for this thesis.

However, this research will not deal with environmental politics, or climate change, or any other policy field in particular. Instead its aim is to establish a conceptual framework for the analysis of political agency within liberal democratic societies and to identify and scrutinize those structural determinants of and limits to purposive change that characterise the nature of the liberal democratic order. These limits are active in all sorts of change and in various policy fields, not only in those of the productive system. But since my perspective has always been that of an environmentalist and of a critic of capitalism, my analysis will be driven (and perhaps biased) by the underlying question whether liberal democratic societies have the capacity to radically and purposively transform their (re-) productive system, that is, capitalism itself.

The object of my investigation will be liberal democracy as a historical formation, that is, as a type of political order that gradually emerged as the contingent result of interconnected political and economic developments in Europe and North America. Liberal democracy today is arguably the dominant form of political order, in as much as ‘a majority of people worldwide now lives in more or less liberal democratic states’ (Dryzek and Dunleavy 2009: 1).¹ I follow Dryzek and Dunleavy in defining liberal democracy ‘as a political system where:

¹ Dryzek and Dunleavy (2009: 24) point out that liberal democracy today ‘is the dominant state form in Europe, North and South America, Australasia, the South Pacific, India, Japan, Korea, Taiwan, South Africa, plus a few outposts elsewhere’. By ‘outposts’ they probably refer to states in the periphery of the capitalist system, like Africa and Southeast Asia.

- Periodic elections determine how the legislature is constituted and who shall hold the executive power of government. There should be free and fair competition among candidates and political parties. [...]
- Fundamental civil liberties are protected by law and constitutional safeguards, while legal enactments and rules are equally and impartially enforced by an independent judiciary and legal system. [...]
- The constitution specifies the powers of particular public offices and branches of government and the relations between them.

(Dryzek and Dunleavy 2009: 18)

This definition succinctly covers the democratic (election of legislature and executive branch) and liberal (constitutionalism, rule of law, separation of powers) dimensions of the liberal democratic order. It encompasses a wide spectrum of (if not all) contemporary ‘advanced industrialised democracies’ (Smith 2009: 7), from ‘classical’ liberal democracies like the United States and Great Britain to Scandinavian-type welfare states and all variants in between.

My position will be that the limits to purposive change in liberal democracies cannot be explained with reference to the normative framework of the political order alone. While it is apparent that the ‘liberal’ dimension of liberal democracy curtails the unrestrained execution of any democratically formed ‘popular will’, the fact of constitutionalism alone does not explain the particular content of democratic will-formation. Of course, liberal constitutions tend to protect individual rights like the right to property, which means, for example, that a communist society cannot emerge directly out of a liberal constitution; however, several different types of societies are conceivable on the basis of private property and individual rights – societies that would indeed have very little in common with the capitalism that dominates our world today. Hence neither the rule of law, nor the civil and political rights usually granted by a liberal constitution, nor the separation of powers can – taken by themselves – account for the particular content of the democratic decisions taken within a society thus constituted. The limits to purposive change must have

deeper, more structural roots. In fact, the longevity and stability of the *normative* order of liberal-democracy itself needs to be explained: is it sufficient to argue in a circular vein that liberal constitutions are long-lasting because they are designed to ‘bind the will’ of the demos to certain unalterable rules? I do not think so – for this in itself would not explain the origin of the authority any constitution might have to bind these wills; that is, why it isn’t overthrown by the demos at the first inconvenience that arises. Hence, some stabilising factors outside constitutionalism must be responsible for the longevity of liberal democratic constitutions. So what is the secret of liberal democracy’s success? What are the underlying structural determinants of that type of political order?

An obvious place to look for a structural explanation of limits to political change in liberal democracy is Marxism. For Marx, the liberal democratic state is an instrument of the bourgeoisie to protect the interests of capital. It is the ‘superstructure’ to an economic ‘base’ (the capitalist system of production) that determines the nature and also the ultimate fate of society. Any effective change in society thus has to be of ‘social’ rather than merely ‘political’ nature: change would come from overthrowing the economic base and not from haggling within the political superstructure (Marx 1984; Marx and Engels 1970). While the Marxist analysis has established an important link between the liberal democratic state and the capitalist market economy, its economic determinism (that capitalism will necessarily be overthrown by social revolution) and classism (that the liberal democratic state is designed only to serve the interests of the capitalist class) are nowadays hard to sustain: capitalism did not lead to the proletarianisation of the entire dependent population in industrialised societies as Marx had predicted, but led instead to the emergence of a powerful middle class and to a consumerism that has since been driving growth and the expansion of the capitalist system. Indeed, the class reductionism of Marxism has long

blocked the view to a deeper understanding of the link between liberal democracy and the growth-based market economy that we are used to call capitalism. My own take on this difficult issue will constitute the starting point of my investigations of the limits to change.

Hence, my argument in Chapter 1 will be that liberal democracy is structurally linked to the capitalist market economy not through any pre-established class interests (although such class interest arguably played a role in the establishment of the *liberal* state prior to its democratisation), but through the epistemic properties of the market which proved indispensable in stabilising the precarious relation of *democratic* representation. The opacity in which the market economy generates the plethora of social facts and phenomena that constitute the hard core of societal reality alleviates the structural tension between represented and representatives that characterises the ‘transparent’ sphere of democracy. In that societal reality is thus perceived to be ‘independently given’, it serves as a common ground on the basis of which the representative system can operate, and ceases to be a matter of fundamental contention. This epistemic function of the market is therefore vital for the generation of what I call liberal democracy’s ‘epistemic legitimacy’ and constitutes the fundamental structural determinant of liberal democracy. Liberal democracy’s functional dependency on the market economy of course has severe consequences for the scope and range of political agency and societal change in that the extent to which societal reality can be constructed in a transparent (that is, political) mode is confined by rigid limits.

Having established the functional relation between the market and the liberal democratic order, my next task is to construct a conceptual framework, in Chapter 2, for the analysis of societal change in liberal democracies. The resulting outline of a *theory of political*

transformation makes use of the Wittgensteinian notion of ‘grammar’ to account for the discursive rules and structures that delimit what is politically possible and impossible, intelligible and unintelligible. While grammar presents a sort of meta-structure that delimits the ‘bounds of sense’ in every social context – somewhat reminiscent of Giddens’ concept of ‘social rules’ (Giddens 1984) – the important question to be answered is if and how this meta-structure can be changed and influenced through political agency within the liberal democratic framework. I will argue that special attention here needs to be given to such discursive elements that are *semi-possible*, that is, demands or discourses that are perfectly intelligible and have a ‘possible’ ring to them but whose possibility remains inhibited by an aspect that is barred by grammar. It is only through the power of *events* – occurrences outside the bounds of grammar – that grammar can be forced to incorporate such semi-possible elements by de-blocking their hitherto impossible aspect. In doing so, grammar itself mutates in that the ‘bounds of sense’ are shifted. This is a quite common phenomenon and I will provide two illustrative examples to flesh out this *logic* of political transformation.

In the next step, the question arises as to how the logic of transformation is related to political agency in liberal democracy: to what extent do liberal democratic societies exert democratic control over their own continuous transformations? This question is tackled in Chapter 3, where I present an analytical distinction between three different *modes of agency* (decision, choice and solution) and analyse their respective employment within the liberal democratic order. Based on the findings from Chapter 1 that the stability of liberal democracy requires the services of an opaque and therefore epistemically ‘independent’ source of societal reality, I will show that the three modes of agency are employed in a way that protects this fundamental requirement of liberal democratic statehood. The resulting

agentic regime of liberal democracy makes sure that the precarious (*qua* transparent) relation of representation is protected as far as possible from *events* that have their origin *within* this relation. Events (sources of grammatical change) are externalised to epistemically ‘independent’ spheres like the economy, technological progress and world politics at large. As a consequence, however, the purposive – and democratic – control over societal change in liberal democracy is diminished.

Having thus established my conceptual framework of the limits to change and completed the first part of the thesis, I then move on in the next part to assess three major strands of contemporary democratic theory with regard to their transformative capacities. Chapter 4 discusses aggregative and deliberative democratic theory, while the whole of Chapter 5 is dedicated to radical democracy due to its intrinsic objective of radical societal change. How do these strands of democratic theory conceive political agency and its limitations? Which avenues, strategies and mechanisms for societal change do they offer? I will bring the conceptual framework developed in Part One to bear on these theories and scrutinise their respective utility for the purpose of societal transformation. Perhaps not surprisingly, the result of the investigation is that each model has severe shortcomings that make it less than ideal for fostering and enabling deep societal change. However, there are elements in all three models that could become important ingredients in the development of a more ‘transformative’ agenda in democratic theory and practice. Radical democracy’s emphasis on the need for decisions, deliberative democracy’s insistence on unconstrained discourse and the ultimate need to aggregate votes in order to arrive at democratic outcomes might all combine into future democratic innovations that help overcome the limits to change in liberal democracy.

Hence, the final part of the thesis (Chapter 6) will deal with the vital question whether the limits to change can be transcended. The question will be answered cautiously in the positive in that I will define a set of criteria any democratic innovation designed to transcend these limits must fulfil. I will then proceed to develop my very own proposal for such a democratic device, based on a synthesis of the analytical insights of my research.

I want to conclude this introduction with a few remarks on methodology. Most of the concepts and analytical distinctions I develop in this thesis are inspired by my personal experience as an environmental campaigner. In creating them I have consulted a wide range of literature and incorporated insights from several different schools of thought. I use some insights from Hayek's epistemic theory of the market to explain the functional relationship between democratic representation and the market economy; I draw on Wittgenstein to theorise about political transformation; and my theory of agentic operators is relying in parts on the writings of Jacques Derrida. This diverse choice of sources and inspirations for my research might appear somewhat eclectic and makes it difficult to attribute my research to a particular intellectual tradition. However, by being open towards an author like Hayek, whose political views I do not share, I am in the position to isolate some very important analytical insights of his work from the ideological background they are coming from and put them to work in a new intellectual perspective. This openness towards synthesising insights from different (and opposed) schools of thought might be called eclecticism by some but I readily accept the label if it means generating new ideas and perspectives that might catalyse fresh debates about important issues. Two decades ago, Chantal Mouffe was criticised by some for using insights from the conservative thinker Carl Schmitt to argue for her project of an agonistic and radical democracy. Her insistence that Schmitt is important despite his political views – to think 'with Schmitt

against Schmitt' (Mouffe 2005: 14), that is – is today acknowledged to have led to an important contribution to democratic theory – and to the discourse on the Left (*cf.* Mouffe 1999a). Hayek might be a similar case.

If I were forced to identify a certain school of thought as my intellectual home, however, I would probably say it is the post-Marxist strand of post-structuralism commonly known as deconstruction. Apart from Derrida (*e.g.* 1978; 1988; 1990), deconstructivist authors like Ernesto Laclau (*e.g.* 1990; 1996a; 2005), Chantal Mouffe (*e.g.* 1999a; 2000; 2005) and Simon Critchley (*e.g.* 1999; 2008) proved vital for the development of some of the ideas in this thesis. As will be seen in Chapter 5, however, this does not keep me from being in some quite serious disagreement with parts of their work.

The themes of this thesis – political agency, democratic change and the transformation of capitalist societies – are of course central to much contemporary political, social and democratic theory. Positions here can be said to range from 'activist' accounts of post-Marxist and radical green theories on the one hand to the rather conservative account of systems theory at the other end of the spectrum. While Authors like Slavoj Žižek (1989; 2002; 2010) and Alain Badiou (2005; 2006) believe that the only route to societal change is a fully-fledged and violent revolution – in spite of their acknowledgement that a 'free' and fully emancipated society as Marx had envisaged it is ultimately impossible – the contemporary mainstream on the left invests its hopes mainly in the radical potential of 'new social movements' like the anti-globalisation movement and its allies in the 'global south'. The most prominent authors of this post-Marxist mainstream are perhaps Antonio Negri and Michael Hardt (2000; 2004) with their trust in the powers of the 'multitude', Ernesto Laclau and Chantal Mouffe (2001 [1985], discussed in Chapter 5) with their dream

of a radical-democratic hegemony and John Holloway with his belief in the Zapatista model of counter-power (2002) and in a radical politics of dignity (2010). In the green camp, meanwhile, an increasing number of theorists are buying into the promises of deliberative democracy (as discussed in Chapter 4 – *e.g.* Smith 2003; Torgerson 1999; Dryzek 1992) while others are preoccupied with the design of a green society or state without giving especially clear directions of how to get there (Eckersley 2004; Barry 1999; Spretnak and Capra 1986).

All of these thinkers share a desire for radical change of some sort; they all long for a *beyond*, for a society that differs significantly from the capitalist industrialism that dominates our world. But their accounts also share a specific weakness: none of them pays much attention to the ‘mechanics’ of change and agency within the dominant liberal-democratic order. As a consequence, most of these theories are somewhat detached from the political reality they are meant to overcome: They assume a form of agency or a collective will that is hard to activate or form within what I call the ‘agentic regime’ of liberal democracy. Neither the anti-capitalist multitude, nor emancipatory hegemony, nor co-operative counter-societies, nor the green state have much room to emerge within a liberal-democratic structure that has firm control over the forms of agency and thus over the ‘political grammar’ of the societies it governs. Or at least that is my argument in this thesis. Understanding the ways in which this control is exerted thus seems to me to be a vital precondition for enabling any profound change.

I have indicated above that at the other end of the spectrum of theories of change we find systems theory. Systems-theoretical accounts of the social as developed by Talcott Parsons (1951; 1978; 1982) and Niklas Luhmann (1984; 1986) conceptualise society as a system

that is composed of functionally differentiated sub-systems. These sub-systems are mutually interlocked in that each is embedded in an environment consisting of other systems. Examples of sub-systems in Luhmann's theory are the legal, the economic, the political, the scientific and the religious systems. Each operates according to its own specific rules or codes (true/false in science; right/wrong in law; good/bad in religion; etc.), which constitute the modalities of its internal development and further differentiation, and each resonates with other systems. By applying biological models of explanation like cybernetics and evolution theory to social systems, systems theory professes an essentially functionalist understanding of social structures. There are feedback loops and regulative mechanisms built into social systems that account for the *autopoiesis* (the 'self-generation') of systems and lead to their evolution and differentiation. There is very little room for voluntarism, purposive social change and political agency in systems theory, especially in Luhmann, since all political action is conceived as a reaction to systemic imbalance and leads only to the further differentiation of the system. For instance, the reaction of greens against environmental destruction just leads to the system's incorporation of these inputs and to its improvement and further evolution (Luhmann 1986). Thus, green activists are simply executing a sort of protocol within the system just like certain cells in the body have the function of protecting it from cancer.

The approach I develop in this thesis does not endorse the suffocating enclosure of systems theory, nor its ontological premises. However, I do believe that a proper analysis of liberal democracy as a historical formation, that is, as a political order that has evolved historically on the basis of a pre-existing capitalist society, has to take account of functional relations between different parts of this complex socio-political system. Some of the structures of our society have systemic properties and follow functional imperatives

that are not controlled by any singular agentic power (like a class or elite), but by the system's propensity to stabilise itself. Hence, my account of the role the market economy plays within the liberal democratic order is that of a *functional* explanation: the primary function of the market is not to be a source of accumulation for a privileged class, but to be a source of the whole system's 'epistemic legitimacy' in that it creates an *opaque* societal reality that serves as a common ground for the *transparent* system of democratic representation (see Chapter 1). This is the vital *systemic function* of the market. Similarly, my conception of the 'agentic regime' (Chapter 3) of liberal democracy can be argued to present a functional explanation of political agency. Nobody has 'designed' this regime, but it emerged as a consequence of the state's functional requirement to protect its 'epistemic legitimacy'. As a consequence of the agentic regime's operation, 'political grammar' (another concept that presents a structure that evolves and was not designed) is effectively insulated against the 'possibility' of alternative political imaginaries, however intelligible they may be (Chapters 2 and 3). In its entirety, the conceptual framework I present in this thesis presents a rather intricate set of mechanisms that account for the stability and resilience of the liberal democratic order.

The limits to change I describe and analyse in this thesis are powerful structures indeed. However, I build on the post-structuralist insight that no social structure is ever complete or has the power to fully determine the social. As Howarth and Stavrakakis (2000: 14) point out, 'the political subject is neither simply *determined* by the structure, nor does it *constitute* the structure' (original emphasis) – a position that has become quite common place within the social sciences at least since the 1980s (*cf.* Giddens 1984). The political, then, is precisely the gap between the structure and the subject – the space where determination ends and the possibility of *otherness* begins. In a world totally determined

by structures, political action would not even be thinkable. But in order for political action to be able to change the structures that confines it, agents have to improve their understanding of these structures. And they will have to create new mechanisms powerful enough to break some of the structures that have evolved to protect the status quo. For ‘another world’ will not be ‘possible’ as long as it is kept suspended in the sphere of political imagination alone. This thesis is thus intended to contribute towards the closing of a gap. It is meant to offer some new analytical tools that might help connect some of the visions for radical change to the actual world that surrounds us.

Part I: Liberal Democracy and the Limits to Change

Chapter 1: Understanding Liberal Democracy

My aim in this study is to explore the limits to, and potential for, purposive societal change in liberal democracy as the social formation that today dominates the globe. This necessarily involves thinking about liberal democracy in a comprehensive way as a political order that is intrinsically linked to the way advanced capitalist societies function and sustain themselves. It means understanding liberal democracy as a form of society, not merely as a form of government (*cf.* Lefort 1988: 14).

My argument in this Chapter will be that liberal democracy as a political order is characterised, first and foremost, by a specific way of constructing and regenerating its legitimacy. I will call this type of legitimacy, on which liberal democracy vitally relies, ‘epistemic legitimacy’. The largest part of the Chapter will be dedicated to exploring this concept and to applying it to liberal democracy. In a nutshell, the concept of epistemic legitimacy involves the idea that legitimacy can be a function of the way societal reality and its perception are constructed, and not only – as is often held – of instituting political order in a morally justifiable way. In the case of liberal democracy, I will argue, the specific way in which the perception of societal reality is organised is logically and systematically antecedent to the normative dimension of legitimacy. The limits to change I hope to discover in this study must therefore be – predominantly – functions of the ‘epistemic structure’ of liberal democracy, rather than functions of its normative properties. To explore this assertion is the purpose of this Chapter.

Before I jump right into my argument, however, it seems expedient to provide an overview of the ways in which the problem of legitimacy has been traditionally conceived in political and social theory so far. Against this background I will then develop my own account of legitimacy.

1.1. The problem of political legitimacy

Political legitimacy is, and has always been, a contested concept in political and social theory. Even the proper usage of the term is disputed. Legitimacy can mean different things depending on the intellectual objectives of its application: those who use it to designate and establish the moral principles by which political power can be justified profess a different understanding of the concept than those who use it primarily as a tool to analyse the nature, stability and resilience of different political systems. Accordingly, two broad approaches to the study of legitimacy are commonly distinguished: the normative and the explanatory; plus some attempts to merge the two (*cf.* Barker 1994: 101). As Barker (1990: 7) points out, the ‘explanation and justification [of obedience to government] are distinct problems, and the solution of one does not necessarily provide a solution for the other’. According to Ian Shapiro, this has led to the emergence in democratic theory of an uncomfortable gap between normative theories ‘that seek to justify democracy as a system of government’ and explanatory theories ‘that try to account for the dynamics of democratic systems’ (Shapiro 2003: 2, cited in Smith 2009: 9). This ‘division of labour’ has become so blatant in recent years that Archon Fung calls it ‘a segregation of thought that now poses a fundamental obstacle to progress in democratic theory’ (Fung 2007: 443). The ‘epistemic’ model of democratic legitimacy I will develop in this Chapter is an attempt to bridge this gap.

1.1.1. The normative approach to legitimacy

The legitimization of political power on the basis of moral principles is a concern that gained significance only in modern times, since only with the advent of public reason and the concomitant demise of Divine Will as the ultimate source of all power and reality did political power become subject to the need for justification. In feudal and medieval societies, the legitimacy of political authority was ‘a muted issue, confined within an understanding of divinely sanctioned hierarchies’, as Connolly (1984: 3) points out. Human authority was derived from divine authority and the social order was perceived to be given by God. There was no or very limited social mobility and every human being was thought to having been assigned their place in society by divine providence. Feudal legitimacy was therefore ‘static, unquestionable and sacred’ (Holmes 1982: 165). What was completely absent from medieval society was the idea that ‘life is governed by conventions rather than God or nature or immemorial tradition’ (Connolly 1984: 1-2). Hence, ‘[t]he question of legitimacy could be posed within the framework of medieval society, but compared to modernity, the space provided for such a question was cramped and confined’ (*ibid.*: 2).

We can therefore establish a simple scheme for medieval or feudal legitimacy, showing that the source of all power was God (G), that the state (S) was the direct agent of God’s will and that the people (P) were subjects of divine will and, thus, of the prince’s power². The scheme (*Fig. 1.1*) displays a direct vertical hierarchy:

² I use the term ‘State’ here in a very general sense, being aware that medieval political organisation was very different to modern statehood. However, since these differences do not play a significant role in my argument, I find it safe to use the term for the sake of simplicity.



Figure 1.1: Medieval legitimacy

Eventually, however, from the sixteenth century onwards, ‘[c]hanges in the understanding of God, nature, language, self, and knowledge forced the retreat of divine authority, enlarged the sense of the conventional, and, thereby, inflated the issue of legitimacy’ (Connolly 1984: 3; *cf.* Lefort 1988: 213). Political power, in other words, had to be legitimised, using arguments based on ‘reason’ and not on religious beliefs, myths or tradition. Abstract models of legitimacy had to be established, leading to the formation of comprehensive political theories and to the rise of modern political philosophy.

The most influential class of theories of political legitimacy, at least in the enlightened seventeenth and eighteenth centuries, became to be what is commonly referred to as ‘social contract theory’, that is, the doctrine

that political legitimacy, political authority, and political obligations are derived from the consent of those who create a government (sometimes a society) and who operate it through some form of quasiconsent, such as representation, majoritarianism, or tacit consent. On this view legitimacy and duty depend on consent, on a voluntary individual act, or rather on a concatenation of voluntary individual acts, and not on patriarchy, theocracy, divine right, the natural superiority of one’s betters, the naturalness of political life, necessity, custom, convenience, psychological compulsion or any other basis. (Riley 1982: 1)

With God no longer being available as the ultimate source of secular power, all power relations among men had to be based on principles established between them. The model of legitimacy was radically reversed in that legitimate power could now only emerge from the will of the individuals who are to be governed by that power. Hence, all modern legitimacy is, in normative terms, based on the following model (*Fig. 1.2*):



Figure 1.2: Modern legitimacy

The state (S) must be a product of the people (P) in one way or the other. The people must, theoretically, have signalled their consent to the way they are governed. Indeed, as Riley points out, ‘between the time of Hobbes in the middle of the seventeenth century and that of Hegel in the early nineteenth, consent emerged as the leading doctrine of political legitimacy’ (*ibid.*).

Actual and express consent, however, in a large and populated polity, is not easy to obtain, and even more difficult to sustain. This difficulty was subsequently dealt with in two different ways, both of which were good enough to alleviate the problem to a certain extent but could not resolve it in its core. One method, famously proposed by John Locke in §119 of his *Second Treatise of Government*, consisted in accepting the ‘tacit consent’ of the individual as a sufficient basis to oblige ‘him’ to obedience to the laws of a government, where the use of a public road or even ‘the very being of any one within the Territories of that Government’ (Locke 2008 [1690]: 348) is considered enough evidence for such tacit

consent. The other – and more successful – method was to argue that legitimate power must be founded on a Constitution as a framework of fundamental rules based on principles to which everybody can *reasonably* be expected to agree. One can argue that while consent is the *democratic* ideal of legitimacy, constitutionalism is the *liberal* one. The notion of consent involved in the liberal doctrine is a hypothetical one since reason functions here as the common denominator for all humanity and makes actual consent redundant. John Rawls is perhaps the most prominent contemporary philosopher professing the liberal doctrine of legitimacy. One of his famous definitions reads as follows:

[O]ur exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. This is the liberal principle of legitimacy. (Rawls 1993: 137)

According to this view, democracy *follows* from the liberal principle of legitimacy, since it is a requirement of reason, as are the liberty and equality of the individuals. Hence, when Rawls states that ‘in a democracy political power, which is always coercive power, is the power of the public, that is, of free and equal citizens as a collective body’ (*ibid.*: 216), he assumes this to be a reasonable principle which everyone can be expected to endorse. Crucially, for liberals, reason takes priority as the universal tool to erect the structures of society, while actual consent only plays a subordinate role, brought to bear only indirectly in the daily practice of democratic representative politics as majority rule in parliament.

Some liberal thinkers, however, do not agree with the more or less silent substitution of consent by reason and argue that actual consent is still very much a core condition of legitimacy. John Simmons, for example, establishes a distinction between *justification* and

legitimacy along these lines (Simmons 1999). His point is that justifying something ‘typically involves showing it to be prudentially rational, morally acceptable, or both’ (1999: 740), whereas legitimacy requires, in addition to that, a deliberate act of consent, and thus of will. On this view, ‘no existing states are legitimate’ (*ibid.*: 769), which is not to say that they cannot be justified ‘by reference to the good that they do’ (*ibid.*: 770). Hence, some of the existing states may well ‘merit our support, and we thus have moral reason to provide it’ (*ibid.*), although they are not legitimate.

Simmons’ distinction is helpful to understand the different ways in which the legitimacy of liberal democracy has been assessed. Typically, liberal democracy is seen as an institutional compromise between different and sometimes divergent normative requirements, which explains why it provides ample ground for its justification but at the same time is frequently perceived as ultimately lacking in legitimacy. The fundamental condition of modern politics, namely, that the state has to be accountable to popular sanction, involves the indispensable assumption of popular sovereignty. Popular sovereignty, which is expressed by collective decision-making, however, is a latent menace to individual liberties and fundamental rights (including property rights), if it is not limited by some rules that are excluded from popular decision-making. Hence, none of the normative ideals involved can be realised in full: some individual liberties can be restrained by political decision-making, while popular sovereignty is never free to change the shape of society at will. This is the famous ‘democratic paradox’ (Mouffe 2000), around which liberal democracy revolves and which is acknowledged as one of its defining characteristics by most commentators (*e.g.* Macpherson 1966: 6, 1973: 5; Held 2006: 201; Holden 1993: 16, 31-32; Habermas 2001; Honig 2007; Rosanvallon 2006: 37-38, 209; Holmes 1995: 136; Shklar 1989: 21, 37; Dyzenhaus 1997: 234; Hayek 2006: 90).

As a consequence of liberal democracy's being an 'uneasy compromise' (Macpherson 1973: 5) between liberal and democratic ideals, some of its core institutional properties, like the principle of representation, simultaneously enhance and undermine the legitimacy of the system. On the one hand, the parliamentary system guarantees a reliable representation of a plurality of societal forces and interests; on the other hand, however, it means that more direct and inclusive forms of participation in decision-making are suppressed and that the actual consent of the people is, as a general rule, not being sought. Hence, the relationship between representation and democracy has been called an 'uneasy alliance' (Pitkin 2004), reflecting the practical necessities of government rather than the ideal ones of democracy. Robert Dahl (1989; 2006), a leading figure of the pluralist school of democratic theory, is of the view that liberal democracy should more aptly be called a 'polyarchy' than a democracy proper, since its most vital function is that of balancing the different societal spheres of interests and clusters of power rather than actually fulfilling the maxim of 'rule of the people'. Along the lines of Simmons' argument above, this does not mean that it is not a morally and rationally justifiable form of government, but it begs some serious questions as to its ultimate normative legitimacy.

In recent decades, the question of liberal democracy's normative legitimacy has revolved around the issue of participation more generally. In particular authors coming from republican, communitarian and (post-) Marxist traditions of political theory argue that any democracy worthy of its name would have to take the direct participation of its citizens in decision-making more seriously than the contemporary liberal-democratic model and they criticised the representative model for its democratic deficit (*e.g.* Barber 1984, Pateman 1970). Such radical criticism of the liberal bias of liberal democracy was superseded, however, in recent years, by a more gentle critique that tried to reconcile democracy and

liberal individualism by bringing the focus on the *process* of participation rather than on the exclusive *act* of collective decision-making. Public deliberation, it is argued, should circumvent the inherent anti-liberalism of majority rule and ideally lead to consent about the subject in question. The idea is that through ‘deliberative democracy’ both of the normative pillars of liberal democracy, the liberal ideal of reason and the democratic ideal of popular sovereignty, could finally be reconciled without obstructing each other’s claim of validity, therefore providing a stronger basis of legitimacy (*cf.* Cohen 1997; Chambers 2003, Fishkin 1997; Gutmann and Thompson 1996; Manin 1987, Habermas 1996a). Through democratic deliberation, participants would ‘transform their own perspectives and come to more reasoned judgements’ (Smith 2003: 59), therefore easing the exclusive, negative and arbitrary dimension of collective decision-making into a procedure leading if not to consensus proper then at least to ‘mutual understanding’ (*ibid.*). Bernard Manin argues thus that ‘the source of legitimacy is not the predetermined will of individuals, but rather the process of its formation, that is, deliberation itself’ (Manin 1987: 351-2), adding that since ‘[t]he deliberative principle is both individualistic and democratic [...] legitimate law is the *result of general deliberation* and not the *expression of the general will*’ (*ibid.*: 352, original emphasis). Although deliberative democratic theory has arguably established itself as a ‘new orthodoxy within contemporary democratic theory’ (Smith 2003: 53) since the 1990s, it remains to be seen in how far it can contribute to the actual reformation and democratisation of liberal democracy. A critical discussion of deliberative democracy’s agentic and transformative properties will be included in Chapter 4.

The normative approach to political legitimacy, in sum, asks for the moral principles and ideals the institutionalisation and implementation of which are necessary conditions for the rational justification of political power; as such, it claims to provide an ‘objective’ measure

for legitimacy, one that ‘can only be obtained by adopting the independent standpoint of the normative philosopher’ (Beetham 1991: 40). However, already the brief discussion offered here of some of the issues at stake shows that the plurality and divergence of the moral principles involved make the pursuit of ‘objective’ legitimacy a very hypothetical and to some extent questionable enterprise, not least because of the tendency involved in all rationalism to ignore cultural and historical difference and to assume the universal validity of a unitary type of reason. Many political theorists therefore prefer a different, more contextual and relativistic view of legitimacy; their interest is not to find universal moral truth but to learn about the regimes and political systems the functioning of which they analyse.

1.1.2. The explanatory approach to legitimacy

One of the political thinkers who do not endorse the objectivist normative approach to legitimacy is Charles Taylor. For him, legitimacy

is meant to designate the beliefs and attitudes that members have toward the society they make up. The society has legitimacy when members so understand and value it that they are willing to assume the disciplines and burdens which membership entails. Legitimacy declines when this willingness flags or fails. (Taylor 1994: 58, cited in Simmons 1999: 748)

This understanding of legitimacy as a function of common beliefs and attitudes is commonly traced back to the work of German sociologist Max Weber, who famously distinguished three ‘basic legitimations of domination’ (Weber 1984: 33): traditional, charismatic and legal authority. The first is ‘the authority of the “eternal yesterday”, i.e. of the mores sanctified through the unimaginably ancient recognition and habitual orientation to conform’ (*ibid.*: 33-4). Charismatic authority, ‘the absolutely personal devotion and personal confidence in revelation, heroism, or other qualities of individual leadership’

(*ibid.*: 34), by contrast, has been exercised in all ages and is still an important source of legitimacy for ‘the elected war lord, the plebiscitarian ruler, the great demagogue, or the political party leader’ (*ibid.*). Legal authority, finally, is the genuine source of legitimacy of the modern state and builds on the ‘belief in the validity of legal statute and functional “competence” based on rationally created rules’ (*ibid.*), following the irreversible bureaucratisation and rationalisation of industrialised societies.

Weber’s descriptive, empirical account of legitimacy has arguably established itself as the dominant framework within which legitimacy is analysed in social sciences (*cf.* Beetham 1991: 6; Simmons 1999: 749), even though his triad of sources of authority is no longer treated as orthodoxy. But also within this approach, definitions and models of legitimacy abound. While, for instance, Seymour Martin Lipset’s definition remains fairly close to Taylor’s when he argues that ‘[l]egitimacy involves the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society’ (Lipset 1984: 88), he nevertheless expands the concept by arguing that a political system’s stability depends not only on its *legitimacy* but also on its *efficiency*. However, while Lipset presents efficiency as a concept separate from legitimacy, others regard it as an integral part of an empirical account of legitimacy. Fritz Scharpf, for example, coined the term ‘output-legitimacy’ to describe the legitimacy-generating effects of governmental action that effectively enhances the well-being of the polity (Scharpf 1999: 16). Put differently, if the output of government enhances the living-conditions (economic situation, security, education, health-care etc.) of its citizens, they will be more likely to support their government than if this is not the case. Scharpf contrasts output-legitimacy (‘government *for* the people’) with input-legitimacy (‘government *by* the

people’), which covers the normative aspects of legitimacy, in particular the democratic imperative of participation and consent (*ibid.*).

The empirical-historical approach hence takes an instrumental view of legitimacy, since its real research objective is not legitimacy itself but the conditions of stability, efficiency and sustainability of a given political system, which are subsumed under the term legitimacy. This, unsurprisingly, incites normative theorists to critique: ‘[m]any political scientists confuse legitimacy with regime-stability, or define it as simply a by-product of effective system-functioning’ (Beetham 1991: 34). Beetham’s criticism highlights the conceptual gap between the normative and the empirical-historical approach to legitimacy, which can be expressed as the difference between *judging* and *explaining* societies.

1.1.3. Marxism and political legitimacy

One voice has been missing so far in our discussion of legitimacy, without which the picture I want to paint would not be complete. Although Marx and Engels never explicitly elaborated on the question of political legitimacy, their theory of ideology – which is ‘fundamentally a theory of the State’ (Balibar 2007: 77-8) – has plenty to say about how the social and political order in a capitalist society is legitimated.

I have argued above that the modern condition for normative legitimacy is, in the most general sense, that the state has to be accountable to, and expressive of, the popular will, that is, that the state (S) is a *function* of the people (P). The schematic model of this *modern condition* was shown in *Fig. 1.2* above. Marx, now, would (and indeed did) characterise this whole notion of normative legitimacy as an ‘illusion’ (Marx and Engels 1970: 80) and would argue, to the contrary, that the diagram has to be inverted if one is to

understand capitalist society: the state is an apparatus of the ruling class that establishes a consciousness within which the social conditions (societal reality at large) appear as naturalised. Capital (C) erects the liberal state (S) to dominate the proletariat (P). Hence, the diagram would have to look like this:



Figure 1.3: Liberal legitimacy according to Marx and Engels

The state, in other words, presents itself as the ‘neutral agent and arbiter of the whole people’ (Levin 1989: 35), whereas in reality it functions as a superstructure that cements the conditions of alienation and exploitation; it functions as a veil or mask to protect the hegemonic interests of the ruling class while appearing representative of the general interest (*cf. ibid.*: 40f.). If the (capitalist) state were serious about enforcing the general interest, ‘it would have to abolish itself’ (Marx 1984: 27), since it can only exist in contradiction to society as such. In Marx, the state is ‘by definition [...] linked to mystification’ and the hope is that it ‘withers away as mystification is lifted’ (Connolly 1984: 7). The state is not so much a direct but an indirect means of domination by the ruling class, since it is based on the premises of private property, competition and capital accumulation as the ‘natural’ laws governing all society. This naturalisation of the

capitalist order is what for Marx and Engels amounts to the ideological dimension of the modern state:

‘Since the State is the form in which the individuals of a ruling class assert their common interests, and in which the whole civil society of an epoch is epitomised, it follows that the State mediates in the formation of all common institutions and that the institutions receive a political form. Hence the illusion that law is based on the will, and indeed on the will divorced from its real basis – on free will.’ (Marx and Engels 1970: 80).

Elsewhere, Marx argues accordingly that ‘[f]rom the political point of view [...] the state *is* the system of society’ (Marx 1984: 26, my emphasis) and that politics as the arbitration of interests within the state colonises the whole of society. Hence Marx’ dismissal of politics: ‘The political mind is a political mind precisely because it thinks within the framework of politics. The keener and more lively it is, the more incapable is it of understanding social ills’ (*ibid.*: 27). This is because politics itself is part of the structure of domination.

Marx and Engels’ famous sentence that ‘[t]he ruling ideas are nothing more than the ideal expression of the dominant material relationships’ (Marx and Engels 1970: 64) means that the bourgeoisie was able to give reality a particular shape and structure so that their ideas were able to retrospectively justify that reality; once the ‘natural laws of the market’ are established as a form of material practice, it is easier to experience the need to sell one’s labour on the market as just another form of ‘liberty’ and to conceive of competition as a form of ‘equality’, for example.

Marx’ view, of course, was that a society without any such ‘ideology’ was indeed possible and therefore the ultimate aim of a truly ‘social’ revolution. The ‘revolutionary overturning of the division of labour’ would, ultimately, be co-substantial with ‘the *end of ideology*’ (Balibar 2007: 47, original emphasis). Marx’ vision of a fully transparent society in which

‘the practical relations of everyday life offer to man none but perfectly intelligible relations with his fellows and to nature’ (*Das Kapital*, cited in Connolly 1984: 8) was that of an ‘effective universality’ in the face of which ‘fictive or abstract universality has no alternative but to disappear’ (Balibar 2007: 48). In this respect, however, Marxism itself proved to be one of the greatest fictions of the industrial age.

My own notion of legitimacy, which I will develop in the remainder of this Chapter, resonates to some degree with the Marxian notion of ideology and differs radically from it in crucial respects. It takes up the idea that the analysis of the way in which societal reality is constructed and its perception organised can be more essential to the understanding of a society than the analysis of its dominant values and moral beliefs. But it rejects the notion that the liberal-democratic state is *per se* an instrument of a ruling class. Instead, my account of liberal-democratic legitimacy will explain why a certain type and structure of societal reality is necessary in a liberal democratic society to secure a stable functioning of a purely secularised, democratic order and how far this circumscribes the prospects of radical and purposive change in such societies.

1.2. ‘Ontological’ and ‘epistemic’ legitimacy

Since my aim in this Chapter is to explain what I believe to be the ‘essence’ of liberal democracy – the fundamental mechanisms that are responsible for its persistence, resilience and stability – the account of legitimacy I want to develop here cannot be a ‘normative’ one: my task is not to morally judge liberal democracy as a political order but to understand the ‘secret of its success’, if you will, in order to obtain a better understanding, in a next step, of the conditions for and limitations to societal change within that order. However, what has been described as ‘empirical-historical’ accounts in the

wake of Max Weber's legacy often lack explanatory power and restrict themselves to describing the measurable evidence of whether a system is supported by its population or not. The account I develop here aims to close a gap in that respect: it tries to equip the researcher with tools to better understand the different types of resources political systems have available to sustain themselves; tools that provide new insights into the nature of political regimes.

The basic idea of my approach to legitimacy is that political systems fundamentally have two different kinds of resources available to 'engender and maintain the belief that the existing political institutions are the most appropriate ones for the society' (Lipset 1984: 88). One type I call a system's 'ontological' resources, which comprise its ability to effectively construct, deploy and reiterate legitimating narratives about the appropriateness of its institutions; the other type concerns its 'epistemic' resources, which entail a system's ability to effectively reduce the scope of societal reality requiring active legitimation. This basic distinction already reveals the logical and functional precedence of the epistemic over the ontological dimension of legitimacy: the smaller the scope of societal reality requiring active legitimation, the more effectively the ontological resources can be used to legitimate it; conversely, the larger the portion of reality a government needs to actively legitimate, the more strain will be put on its ontological resources to do so. As a consequence, both dimensions are highly interdependent: none of the two dimensions ever exists on its own – there is always an ontological and an epistemic dimension to legitimacy.

Ontological legitimacy subsumes the notion of 'normative legitimacy' in that it constitutes an analytical category within which the entire modern moral discourse of normative

justification can be harboured. But it also includes pre-modern (medieval, ancient, etc.) narratives of legitimation as well as, for example, Marxist and other non-liberal modern narratives. The basic assumption in the concept of ontological legitimacy is that any *active* legitimation of a given order or reality relies on some kind of legitimating narratives that ultimately tell stories about the way the world is and about human essence and the purpose of society, hence, *ontological* narratives. When C. B. Macpherson, for instance, famously speaks of the ‘justifying theory’ of liberal democracy (1973: 3-23, and *passim*), he argues precisely that the political theories that have tried to legitimate the liberal social formation have always relied on different ‘ontologies’ as on different ‘views of the essence of man’ (*ibid.*: 24).³ Similarly, Carl Schmitt (2004: 61) presumes that every political idea somehow expresses a view as to the nature of man.⁴ And according to Stephen K. White, political ontologies ‘claim to reflect for us “the way the world is,” or how God’s being stands to human being, or what human nature is’ (White 1997: 509). If seen through this lens, he contends, ‘the whole question of passages from ontological truths to moral-political ones is relatively clear’ (*ibid.*). White defines ontology – following Quine – as referring to ‘the analysis of those basic entities whose existence is presupposed by a given proposition, theory, or research tradition. If one makes truth claims about the latter phenomena, one thereby takes on a logical “commitment” to the existence of the former’ (*ibid.*: 502-3). Legitimizing narratives, I argue, are always and necessarily based on such presuppositions; even if they do not talk about ontology in a direct manner, they always in the final instance

³ Macpherson argues that these liberal-democratic ontologies are ‘internally inconsistent, comprising as they do two concepts of the human essence which are in the circumstances incompatible. One of these is the liberal, individualist concept of man as essentially a consumer of utilities, an infinite desirer and infinite appropriator [the famous model of ‘possessive individualism’ based on Lockean liberalism; D.H.]. [...] The other is the concept of man as an enjoyer and exorter of his uniquely human attributes or capacities, a view which began to challenge the market view in the mid-nineteenth century and soon became an integral part of the justifying theory of liberal democracy [the ‘developmental’ model inspired by J. S. Mill; D.H.]’ (1973: 24).

⁴ ‘Jede politische Idee nimmt irgendwie Stellung zur „Natur“ des Menschen [...]’ (2004: 61).

rely on ontological assumptions. Active legitimation is therefore always the assertion of a particular ontology. And every political order relies, to some extent, on active legitimation.

Epistemic legitimacy, by contrast, functions in a very different way. It reduces an authority's burden of active legitimation by diminishing the scope of societal reality it can be held accountable for. Operations of epistemic legitimation can therefore involve many strategies to change the perception of societal reality and of powers that are at work in it, for example by 'eclipsing' whole dimensions of societal reality from public perception. The central idea is that any given power only needs to legitimise that share of societal reality it is perceived to be accountable for. It is ideal, then, for a power, to have substantial influence over the largest possible part of reality while being perceived only to account for the smallest possible part of it. The central explanatory categories of the concept of epistemic legitimacy are, accordingly, 'societal reality' and 'perception'. Rather than operating directly on the basis of narrative truth-claims, epistemic legitimacy has to do with the epistemic structure of the 'stage', as it were, on which such claims are performed.

1.3. The modern crisis of ontological legitimacy: the 'paradox of politics'

1.3.1. The waning of medieval legitimacy

If the 'legitimacy of political authority' in the medieval world was, in William Connolly's words, a 'muted issue' (Connolly 1984: 3), this is because the ontological resources of medieval power were almost infinite. The medieval world was entirely penetrated by the will and purpose of God. In that world,

[k]nowledge assumes the form of commentary on meanings and affinities inscribed in the text of the world by God. In a world where things and words are filled with divine purpose, empiricism and the fact/value dichotomy make

no sense. Authority resides within, or is expressed through, the words, things and events of the world. (*ibid.*)

Put differently, medieval authority (what Weber called ‘traditional authority’) was based on a tightly knit web of ontological narratives that placed the source of all reality in the realm of the super-natural. Any attempt to challenge the order of things would be heresy. Medieval power consequently achieved a considerable level of *epistemic* legitimacy through *ontological* means: in a society where all reality was perceived to originate from divine will, all human powers, including that of the prince, were seen as a product of that ultimate will. Thus, the prince was not perceived to be accountable for reality as such, only for the actions he carried out within the role that was assigned to him by the superior forces. Hence, the prince could be perceived as benign or inclement, his rule as just or arbitrary, as wise or reckless, and these differences certainly influenced the quality of allegiance and subservience, but they would only concern the human and thus fallible aspect of an otherwise divine and infallible order. Resistance, therefore, would only arise against these secular aspects of rule on the level of concrete policies and styles of domination; the order as such would not be challenged. The prince would thus be liable to some minimal extent to legitimise his politics (the amount of taxes he levies, the wars he wages, the laws he decrees) but not to legitimise his position in the world. Medieval authority, it can be argued, was therefore based on the effective limitation of the scope of societal reality that required legitimation; and this limitation was achieved by the total penetration of the world by the religious and mystical ontology of that age.⁵

⁵ A prominent example of an ontological narrative to sustain medieval legitimacy is the doctrine of the ‘two bodies of the king’ which was, according to Ernst Kantorowicz, modelled after the scholastic doctrine of the ‘two bodies of Christ’, according to which Christ has a ‘human material body which he assumed from the virgin, and the spiritual collegiate body, the college of the Church’ (Kantorowicz 1955: 90, cited in Kroen 2000: 24). The notion of divine sanction of the secular realm could be invigorated by the new, adapted, formula: ‘The king has two bodies, the one whereof is the Body natural [...] and in this he is subject to Passions and Death as other Men are; and the other is the Body politic and the members thereof are the subjects, and he and they together compose the corporation and he is incorporated with them, and they with

With the emergence of new forms of knowledge, with the spread of commerce and manufacture and with the concomitant increase of social mobility and, to some extent, autonomy, the hitherto robust epistemology and ontology of the middle ages were waning, however. Societal reality no longer seemed to be dependent on divine will alone and this new epistemic outlook weakened the ontological basis in turn. With the ontological narratives losing their firm grip on society, the political authorities had increasingly less success in limiting the scope of societal reality for which active legitimation was required and as a consequence their very position within society was eventually becoming a matter of contention.

1.3.2. The paradox of modern politics

As we have seen, the advent of modernity meant that God gradually disappeared from the ontological formula that had secured medieval legitimacy. The old order disintegrated with the state and the people remaining without superhuman direction. In the face of reason as the emerging new universal force, however, only one form of relation between these two entities was now conceivable: that the state had to be sanctioned, somehow, by the will of the people. *Modern* statehood, that is, has to be constructed as an entirely *immanent* relation of the people with itself. The state becomes an institution *of* the people and an expression of its will. This novel relation between the people and the state, however, turns out to be of a paradoxical nature, since it is, in fact, nothing else but ‘the people’s relation to itself as both ruler and ruled’, as Bonnie Honig (2007: 9) points out.⁶ Since God as the source of all authority now has to be replaced by the people, the latter finds itself both on top of the state as the new sovereign and underneath it as its own subject. It is both the

him, and he is the Head, and they are the Members; and this Body is *not* subject to Passions and Death, for as to this Body, the king never dies.’ (Kantorowicz 1955: 91, cited in Kroen 2000: 24).

⁶ According to Honig, the modern ‘paradox of politics’ was first theorised by Rousseau in his *Social Contract* (1993 [1762]). See also the famous treatment of the subject by Paul Ricoeur (1984).

source and the subject of authority. The people is duplicated, as it were, into two instances that are located at the opposite ends of a vertical relation of power. This is the paradoxical core of the modern ontology. More precisely, the paradox consists in the problem that either the self-identity of the people or the vertical relation between its two instances is logically untenable – we cannot have both at the same time. If we insist on the singularity of the term *people*, we cannot have it on both ends of a hierarchy. In this case, we would have to conclude that the state and the people ultimately must implode into one co-extensive entity – a form of unmediated self-rule in which there is only one unitary and instantaneous will that is automatically and organically executed by the entire people without the possibility of deviation. Only thus could there be a non-hierarchical relation between state and people where the people is at the same time ruler and ruled. The problem of this *proto-totalitarian* solution is that its assumption of organic unity is a phantasm that infallibly leads to the suppression of the people ruled by those who assume the position of the ‘people’ ruling – and thus to the splitting of the people.

If, therefore, we insist on the idea that the state must be sanctioned by the people without being identical with it, then the split of the people into a ruling and a ruled instance is constitutive. The ruling instance would thus be vertically related to the ruled instance – one instance would have the power to force the other to obey its authority. The notion of popular sovereignty, then, would have to be split, too, namely into the *nominal* sovereignty of the people ruled and into the *actual* sovereignty of the people ruling. But the notion of a *split sovereignty* undermines the very meaning of sovereignty itself, since it allows for an undecidable contest for primacy where sovereignty denotes supreme and undivided authority. The concept of popular sovereignty thus reveals itself to be both *impossible* and *necessary*: impossible because it involves a split where there should be unity and necessary

because it is the only base from which a purely immanent political ontology can be constructed. The paradoxical status of popular sovereignty renders it notoriously precarious, since the nominal sovereignty of the ‘people ruled’ is always threatened by the actual sovereignty of the ‘people ruling’ (the state) and vice versa. Consequently, the quest for legitimate power turns into a kind of ‘chicken-and-egg circle’ (cf. Honig 2007: 2): which is the true locus of popular sovereignty – the state as its institutional manifestation or the people as the nominal source of authority?⁷ For a stable political order to emerge, this chicken-and-egg circle of nominal versus actual sovereignty (*fig. 1.4*) must be brought to a halt: the relation of state (S) and people (P) must be instituted in such a way that the sovereignty of the people as well as the authority of the state is warranted.



Figure 1.4: The political paradox of modernity

Modern political theory can be seen as the eternal search for ways of dealing with the modern political paradox and of stabilising the precarious relation between people and state. Its quest is the creation of ontological narratives that propose a particular way of cutting off the infinite regress in the search of true sovereignty and of instituting a stable political order. Thomas Hobbes, to name one of the early examples, evaded the paradox by

⁷ Murray Edelman captures the empirical dimension of this relation neatly: ‘The state benefits and it threatens. Now it is “us” and often it is “them”’ (Edelman 1964: 1, cited in Dryzek and Dunleavy 2009: 1).

assigning all sovereignty to the absolute ruler by contractarian means. He was well aware of the necessity to derive all political authority from the people, but did not conclude that the people were to rule themselves: instead his solution in *Leviathan* (Hobbes 1991 [1651]) is to imagine an agreement in a pre-political *state of nature* among all individuals to voluntarily subject themselves to the absolute authority of a single sovereign for their own good. The people thus never assume the political position as sovereign but agree instead to confer it to a ruler. This contract arguably being an act of sovereignty itself, the ontological precondition of deriving the political order from popular sanction is fulfilled and the paradox at the same time avoided: the people will henceforth find itself at the receiving end of authority and no ambiguity will arise as to the locus of sovereignty.

More than a century later, when the subject of popular sovereignty could no longer be kept at bay, Jean-Jacques Rousseau would present a proposal for deriving a stable political order from popular sovereignty in his *Social Contract* (1993 [1762]): he would reproduce the constitutive split of the people by splitting the concept of the popular will into a singular 'general will' and a plural 'will of all', whereby the former would operate as the rational normative standard with which the latter would have to be brought into accordance. The popular will understood as the general will would clearly be discernible as the reasonable thing to will (cf. Honig 2007: 4), and those who would not see it would ultimately have to be forced to embrace it. It is the state's function, as Rousseau suggests in Chapter 1 of Book IV of the *Social Contract*, to make sure that the general will is also the will of all. Hence, Rousseau offers the general will as the glue that unites the people ruling and the people ruled into a single *body politic*. The state, however, would have the authority to enforce that will on all, but there is no guarantee that the general will would in every instance also be the will of all. Realistically, as Honig points out, the general will

‘can never be really equally in everyone’s interest nor really equally willed by everyone’ and ‘[e]ven if it were so fully willed, its authors nonetheless experience it as alien when it becomes a source of rule, and they are no longer only its authors but also law’s subjects’ (2007: 5). The political paradox is therefore far from being solved: whoever does not ‘see’ what the general will is and whoever does not share it, will become subject to an authority they are not the authors of. The content of the ‘general will’ will naturally be contested so that ‘the people’ will invariably be split over its definition.

While Hobbes evaded the paradox by eliminating popular sovereignty from the outset in the only sovereign act of the people, the example of Rousseau suggests that the political paradox is not solvable if popular sovereignty is to be taken seriously: there are always only two pegs for three holes. This further suggests that the paradox could be suspended if a *third* term were found that helps organise the relation of people and state. As I will show in the rest of this Chapter, liberal democracy as a form of society that is based on the ontological formula of popular sovereignty could only emerge with the help of such a *third* term – an external element that serves as a reference point around which state and people could find a stable relation and the political paradox could be suspended. This third term is the capitalist mode of development and in particular the market economy as an *opaque* source of reality. My argument will be that the radical *subjectivity* the immanence of the modern political ontology creates (What is the content of the general will and who decides this?) disables the establishment of a stable political order as long as that order is not organised around some form of profound *objectivity*. The capitalist mode of development, I will argue, offers a form of reality that is perceived as ‘objective’ enough to serve as the bedrock on which an immanent relation of state and people can be instituted.

My argument crucially involves the claim that the self-binding nature of constitutional democracy is not a sufficient criterion to explain the stability of the liberal-democratic order. Constitutions and the rule of law may be rational and worthy of the citizens' consent (equality before the law and the separation of powers might create some formal 'objectivity', for example), but this 'objective frame' can only function over time if the content of the social order (i.e. the essential material and symbolic features of societal reality) is more or less undisputed. My claim is that no covenant or agreement has the power to put these fundamental questions beyond dispute – for why should anyone feel bound to a constitution if they don't already share essential features of a common social order? A constitution, I argue, can only fulfil its important function if the society that so binds itself already shares a common reality whose main building blocks can be described as 'objective', that is, as being perceived to be created outside the radically subjective sphere of political convention. Without a capitalist structure at its core that generates an 'objectified' reality to which the constituted polity can react, any liberal constitution would be equally prone to failure as Rousseau's general will: eternal discord over the nature of society would ensue and the polity would be surrendered to the subjectivity of the popular will. Liberal constitutionalism thus has been historically successful due to its inherently capitalist nature and not due to its self-binding properties. The void that God had left at the apex of the social order had to be filled by another *third* term: the capitalist market and its frantic industrialism, its commerce and profound opacity (see the discussion below) were able to relieve modern society from its precarious immanence. The people and its state could now organise their own relation in response to a reality that was largely perceived as 'given' and not as a product of human convention. My argument, to be sure, is not a defence of capitalism, but a critical analysis of the nature of liberal democracy and its intimate relation to modern capitalism.

Curiously, the question under what conditions the institution of the modern political ontology can yield stable results is rarely pursued at much depth by theorists of liberal democracy. Rather, it is standardly evaded by reiterating the rather empiricist statement that liberal democracy has somehow managed to establish itself as a stable political system that strikes a working balance between popular sovereignty and constitutionalism (Habermas 2001), or that it is a ‘paradoxical’ (Mouffe 2000) and ‘uneasy’ (Macpherson 1973) alliance between two conflicting traditions (liberalism and democracy) that nevertheless manages to work effectively. In other words, the fact that liberal democracy somehow seems to work is taken as its own cause. Claude Lefort (1988: 17), for instance, maintains that the defining characteristic of modern democracy is that the ‘locus of power is an empty place’, meaning that authority in a modern democracy is of a structural nature and cannot be continuously occupied by certain individuals or groups. While this famous definition works well to distinguish modern (or liberal) democracy from feudal political orders in descriptive terms, Lefort’s account fails to *explain* how modern democratic societies manage to *keep* the locus of power empty, how they manage to break the vicious circle that defines the core of the modern political ontology. The only explanation he offers is that

democracy is instituted and sustained by the *dissolution of the markers of certainty*. It inaugurates a history in which people experience a fundamental indeterminacy as to the basis of power, law and knowledge, and as to the basis of relations between *self* and *other*, at every level of social life (at every level where division, and especially the division between those who held power and those who were subject to them, could once be articulated as a result of a belief in the nature of things or in a supernatural principle). (Lefort 1988: 19)

Again, Lefort’s account convinces as a *description* of the modern democratic condition, but it fails on the explanatory count: while it is beyond dispute that the dissolution of the

markers of certainty (the waning of the religious ontology informing medieval political legitimacy) defines the condition of modern democracy and the basis of its ontological legitimacy, it is rather dubious in how far it is fair to argue that it *sustains* democracy. Would the dissolution of the old certainties and their replacement by a political ontology that simultaneously places the people on top and at the bottom of the political order, with an intermediate structure of power that is constitutively ‘empty’, not suggest constant turmoil, instability and disorder instead?

And indeed, Lefort’s own interpretation of the French Revolution, together with those of François Furet (1981) and Pierre Rosanvallon (2006),⁸ suggests as much. The French Revolution can be seen as the historical event *par excellence* where the new ontological narratives of modernity met pure political practice, since it was the attempt to enact popular will and political reason directly and instantly. Instead of achieving stable government, however, revolutionary France was characterised by a ‘chronic crisis of legitimacy’, as historian Jon Cowans (2001: 6) points out. This crisis can be explained, I argue, in terms of the chicken-and-egg problem that constitutes the paradox of politics under modern conditions, for the practical problem of enacting the new ontology was to secure the sovereignty of popular will over the state – to make the state become its *expression*.⁹ The problem was, however, that the unity of the people as ruled and the

⁸ Lefort, Furet and Rosanvallon all represent the ‘anti-totalitarian’ tradition of French political thought, which takes a critical stance on the ‘voluntaristic drive to unify society according to Jean-Jacques Rousseau’s theory of the general will’ (Moyn 2006: 10) that was exhibited during the French Revolution.

⁹ For the revolutionary Babeuf it was obvious that ‘[i]f the People are the Sovereign, they should exercise as much sovereignty as they absolutely can themselves’ (cited in Dryzek and Dunleavy 2009: 20). The idea of formal representation was regarded undemocratic since it would mean to effectively hand over sovereignty to the representatives. This normative imperative, however, conflicted with the practical imperative of modern statehood that the state must claim sovereignty in the sense that ‘the state is the highest source of authority in the territory’ (Dryzek and Dunleavy 2009: 3). This tension is palpable virtually on every page of Rousseau’s *Social Contract* (1993 [1762]) and culminates in his famous formulation that ‘whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free’ (ibid.: 195). The ‘whole body’ here is, of course, the ‘people as ruler’: the state. This situation neatly captures the dilemma in which the French Revolutionaries found themselves.

people as ruling – the unity between state and people – could never be achieved, since the popular will could never be expressed and enacted simultaneously by the entire citizenry. Ultimately, *someone* had to express the popular will and enact it *for* the people. This leads to Robespierre's 'despotism of liberty' (Lefort 1988: 73) and to the Terror of the French Revolution. Expressed in the terms I have used above, the problem was that the 'people as ruled' at the bottom of the diagram never fully conformed to the 'people as rulers' at its top, and that the state as the intermediary structure of power had to use force to establish this unity. This meant that the revolutionary state started to force the actually existing people to become or embody the idealised 'sovereign' that the revolutionary state required. This realist turn in the institutionalisation of the modern political ontology is most powerfully expressed in a statement made in the midst of the Revolution by Billaud-Varenne that '[i]t is necessary, in a fundamental sense, to recreate the people in order to render liberty to them' (cited in Rosanvallon 2006: 96). Hence what happened according to this reading of the French Revolution was precisely that the state started to execute the people's sovereignty on their behalf, thereby creating a fictitious sovereign to which the actually existing people was made to conform. The revolutionary state thus reversed the ontological order in actual fact, in a vain attempt to save it. The vicious circle of the political paradox was in full spin, and the modern democratic ontology that established the people as 'both ruler and ruled' could not be implemented in a stable manner.

The French revolutionary experience thus reveals and illustrates what I call the modern crisis of ontological legitimacy: contrary to medieval power, modern power can no longer rely on the institutional implementation of ontological narratives alone to constitute a stable political order. The fact that the modern ontological formula paradoxically posits the people on top of the political order as well as at its bottom requires a new way of

instituting society – a way that provides tools and mechanisms to suspend the paradox. Needless to say these tools and mechanisms must work in a different register than that of ‘ontology’ (the narratives constituting the core beliefs about the nature of society) – their very purpose is instead to find a way of instituting modern democratic society in such a way that its paradoxical ontology does not lead to its self-destruction.

Liberal democracy, I argue, can be said to have successfully managed to suspend the paradox of politics and thus to institutionalise the modern ontology (with some severe limitations, as we will see). In formal terms, liberal democracy is based on the same normative premises as revolutionary (French) democracy: the ontological assumptions of equality, liberty and sovereignty are vital to both variants. But liberal differs from revolutionary democracy precisely in that it sets up a ‘stage’ on which these principles can be enacted without interfering too much with societal reality. In fact, societal reality itself is staged as a sphere that is almost ‘independent’ of the political order strictly speaking. This, as we shall see, enables the liberal-democratic order to pacify the precarious relation between state and people – but it also means that both state and people to a large extent forgo the prerogative of the sovereign to purposively alter the contours of that ‘independent’ societal reality. This supports Lefort’s claim that liberal democracy is ‘a form of society’ (Lefort 1988: 14) and not just a political order. What enables liberal democracy as a form of society is what I will call a ‘perceptual regime’ at its core that structures societal reality and consequently allows for a stable political order to emerge.

1.4. The ‘perceptual regime’ of liberal democracy

By defining liberal democracy in terms of a ‘perceptual regime’, I suggest that it derives its legitimacy and life-support primarily from its ability to reduce the amount of phenomena

within society that need legitimating. It does so by dissociating the production of the bulk of phenomena that make up societal reality from the political system itself, thereby creating the perception of a largely ‘given’ reality. In explaining this ‘perceptual regime’, which makes for liberal democracy’s ‘epistemic legitimacy’, I want to pay attention to three different steps or dimensions of explanation.

The first concerns the relationship between state and people. The structurally irresolvable tension between them is bridged by the construction of a ‘source of reality’ that appears to be *independent* of both state and people; hence they both start to share a joint vantage point and are able to overcome their paradoxical relationship. The perceptual equality between state and people that is constitutive of the perceptual regime of liberal democracy I will call their ‘epistemic bond’.

The second step concerns the nature of that ‘independent source of reality’: the capitalist market economy. What needs to be explained are the market’s epistemic properties, which make it such an ideal ‘independent source of reality’. They will be identified as the market’s characteristic trait to generate reality in a completely ‘opaque’ way, that is, to eclipse all relations of derivation and causation in the price system. It therefore makes for a particularly ‘clean’ surface of reality, which withdraws all aspects of human agency and presents itself as ‘independent’. The central explanatory categories in this step of explanation will thus be *opacity* and *transparency*.

Thirdly and finally, I need to explain the perceptual mechanisms that are controlled by the changeable relation of opacity and transparency in generating societal reality. These regard the ‘axes of gaze’ between the people (what in liberal democracy is the *public sphere*) and

the state. Quite simply, the more opaquely societal reality is generated, the stronger the epistemic bond between state and public sphere; the more transparently it is generated, the weaker the bond and the more the ‘paradox of politics’ comes to the fore again. This simple mechanism will explain the general logic of the ‘limits to change’ in liberal democracy: the state is relying on reality’s being generated in the most opaque way in order to keep the paradox of politics at bay; hence the state’s generic interest in ‘opaque’ forms of agency and in the integrity of the market as an independent source of reality.

1.4.1. The ‘epistemic bond’

The search for the perfect political bond that unites and weaves society is as old as politics (*cf.* Loraux 1994). Plato, for sure, was looking for it when he asked in the *Republic*: ‘[...] could we describe anything as better for a community than something which binds it together and unifies it? [...] And isn’t it the sharing of feelings of pleasure and distress which binds a community together – when [...] the whole citizen body feels more or less the same pleasure and distress at the same gains and losses?’ (Plato 2008: 176-77 [462 b-c]).

Many kinds of political bonds have been constructed since Plato and most of them were made of what I have called ‘ontological narratives’. This is the case for the bond of a common religion, the bond of tradition, that of the ‘nation’ or even that of ‘class consciousness’. Some of these bonds worked very well over many centuries, maybe because they were more like shackles than bonds. Others work well in times of conflict, when political unity manifests itself in antagonising the other, but weaken in times of peace. In general, political bonds can be said to require some common purpose, goal or destiny. Put differently, they require an element *outside* the relation of those ruling and

those ruled in response to which this relation can be stabilised and pacified. A community is normally defined in differentiation to those outside it (*cf.* Anderson 1983); the ‘we’ is constituted by the ‘they’ (*cf.* Mouffe 2005; Schmitt 2002). What potentially stabilises the relation between state (S) and people (P) is therefore the common reference to an element (X) outside it. The phenomenon of a political bond can therefore be depicted as a triangular relation (*Fig. 1.5*):

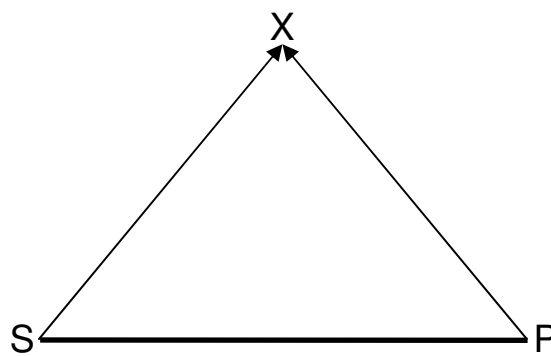


Figure 1.5: The political bond

The problem of most *ontologically* constructed political bonds is, however, that they require frequent patching and mending: the external element ‘X’ has to be carefully tended and periodically reinvigorated. Not just once has it been the case in history that wars were waged solely to secure internal stability. Ontologically constructed political bonds are therefore inherently instable and/or tend to encourage belligerence and authoritarianism.

The problem of revolutionary (or ‘pure’) democracy was, as could be shown above, that it took the ontological premises of modernity at face value: it aspired to establish a stable relation between state and people purely on the basis of the new moral truths that were at the core of modern ontology and did not foresee a political bond other than the shared

enthusiasm for these values.¹⁰ As the example of the French Revolution showed, such a relation is inherently instable due to its paradoxical nature under modern conditions.

Liberal democracy, by contrast, prevailed as the most successful and persistent modern democratic regime not because its normative properties are morally superior to competing modern concepts of statehood, but because its foundation is an exceptionally strong political bond – one that is not constructed by *ontological* but by *epistemic* means. On the *basis* of this epistemic bond, then, the normative principles that constitute its ontological legitimacy could be enacted. In order to understand the nature of the epistemic bond, however, we now need to change into the register of *perception*:

Without an external element ‘X’ organising their relationship, state and people are, so to speak, *gazing at each other*. The construction of societal reality is totally inherent to their relationship and therefore the object of contention. Every action or initiative on the part of the state will be watched and responded to by the people which is anxious to stand its ground against the state’s attempts to appropriate its sovereignty, since, in fact, every initiative on the part of the state is necessarily an act of sovereignty and therefore an undermining of the people’s moral status of sovereignty. The people will gaze at the state and the state will gaze at the people; their relation will be one of caution and distrust as a matter of necessity. The epistemic scheme of this relation can be presented thus (*Fig. 1.6*):

¹⁰ To be sure, revolutionary France did not forego the unifying powers of an external political enemy altogether: the ‘war against Europe’ that started in 1792, welded together ‘classes and the Revolution itself in a common passion’ for the new nation (Furet 1995: 104). Not even this powerful bond was ultimately strong enough, however, to mend the internal crisis of legitimacy.

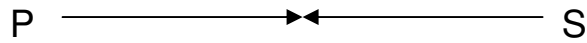


Figure 1.6: Axis of gaze without epistemic bond

These opposing ‘axes of gaze’ illustrate the constitutive gap between the people ruled (‘the people’) and the people ruling (‘the state’): they cannot, even in principle, ever coincide, since the gap appears as soon as someone speaks or acts ‘for the people’ (Cowans 2001; *cf.* Saward 2006); hence the paradox of politics.

Since the paradox of politics cannot be resolved, it can only be suspended by epistemic means; and that is by directing the gaze of state and people away from each other. Instead, however, of relying on the typical construction of some arbitrary common causes on the level of nationhood alone, liberal democracy is characterised by a much more fundamental political bond that is integral to its structure: it is based on the construction of a *source of societal reality* that appears to be entirely outside of the relationship of state and people. Hence, state and people turn, epistemically speaking, into mere *recipients* of a reality that appears as independently given. Their common cause, then, is to *respond* to that reality. This source of reality is, of course, the capitalist market economy.

Liberal democracy is constructed in such a way that the forces of the market generate the bulk of phenomena that make up societal reality. Most facts in life are then perceived as being the direct effect of neither the state’s nor popular control. Rather, government and popular participation in it are perceived as the necessary *administration* of a reality that is

not consciously created but independently given. The epistemic model of liberal democracy can thus be schematically depicted as follows (*Fig. 1.7*):

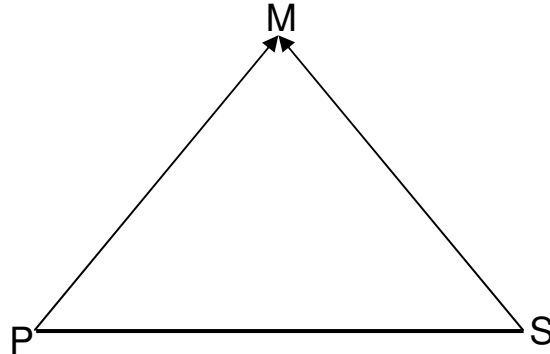


Figure 1.7: The epistemic bond in liberal democracy

Let me now explain more closely why I propose to call this mode of legitimacy ‘epistemic’: I start from the assumption that the legitimacy of a society depends on the scope of societal reality that requires active legitimation by the ‘people ruling’ (i.e. government or the state in a wider sense). In a (hypothetical) absolutely transparent society, in which *all* facts of life for all citizens are openly determined by political convention, the onus of legitimation would be at a maximum: the ruling instance of the people would have to justify all facts of life to the ruled instance of the people and in order to do so would need convincing narratives that explain why things are exactly as they are and why this is as a good thing. In this extreme scenario all citizens would *know* that the ruling instance is directly responsible for all facts of life.

The onus of legitimation can be reduced, however, in that parts of societal reality are excluded from transparent social coordination. Usually this is the case for all things ‘natural’ (like the weather or a migraine), but the realm of non-conventional facts can be

extended far beyond the natural world in that mechanisms of social coordination are engaged that ‘eclipse’ certain phenomena from the surface of common knowledge. The price system of a free market is one such mechanism that eclipses from the surface of social life the causal relations that lead to the establishment of a price, as will be discussed in more detail further down. The price of a certain good in a complex market system presents itself to the buyer as a natural fact like the weather or a migraine – it is impossible to discern all causal relations that lead to its establishment. Hence, by allowing the market economy to pervade large parts of a society, ever more facts of life will appear no longer to be determined by political convention but will present themselves as ‘objectified’ or quasi-natural facts instead. Their value will no longer be considered ‘subjective’ (i.e. a matter of political judgement), but ‘objective’ or pre-politically ‘given’.

Hence, the onus of legitimation for the ruling instance of the people is effectively reduced to the extent that the scope of reality that requires active legitimation is reduced. The more complex (and globalised) the capitalist economy gets, for example, the more facts can be presented as no longer directly determined by political convention – in the (hypothetical) extreme case, a government in a perfect market system could present the entirety of social relations in a polity as an ‘objective fact’ that is determined by forces outside its jurisdiction. Hence, the mode of legitimation I am discussing here is ‘epistemic’ in that it regulates the *knowledge* social actors have about the causal relations that establish the world they live in. This knowledge is regulated by employing either more *transparent* (e.g. political) or *opaque* (e.g. market-driven) mechanisms of social coordination.

In liberal democracy, the market constitutes an independent ‘source of reality’. This means that the abundance of phenomena that together are perceived to shape societal reality

‘emanate’ out of that sphere, as it were, which is at the same time both *part* of society and *outside* the precarious relation of the state and the people. As a consequence, this independent source of reality starts to function as the *common point of reference* of both the people and the state. Their gaze, so to speak, is directed towards that which generates their reality. Now, instead of facing each other, the people and the state are standing side-by-side, so to speak, looking at a reality they both share.¹¹ This constitutes the crucial move: the axes of gaze are directed away from each other and towards a shared object.

By perceiving a reality that appears to be the same for both watchers, a common matrix of reference is established. It appears that reality is no longer created by the state and scrutinized by the people or, depending on the point of view, emerging out of the general will of the people and executed by the state; it is now emerging from a realm that is exterior to both state and people, which allows the latter to turn away from each other and change their relation fundamentally: they can now debate about how this reality can be administered and enhanced, instead of fighting over the prerogative to execute sovereignty. To put it very simple: state and people now no longer fight over the *What* of society but debate about the *How*.

Since the market constantly produces the facts of reality, it keeps both state and people busy dealing with the task of administering these facts (the *How* of society). The *What* of society, so to speak, is turned into a muted question; it does not require an imminent answer since both state and people are busy dealing with a dynamic reality neither of them appears to have commanded. They are, in some sense, dealing with a constant state of

¹¹ Kant observed that since we live ‘unavoidably side by side’ (cited in Held 2002: 23) we need to leave the state of nature and enter into a state of public right with each other (cf. Kant 1991 [1797]: 121-122;). However, this ‘enlightened’ state of public reason, I argue, can only be durably established under the condition that the shared reality is not perceived as contentious but as ‘given’. Otherwise, the side-by-side quickly turns into confrontation.

emergency, as if some natural disaster required their unabated attention and therefore keeps them from returning to the fundamental question of *what* society should *ideally* be like. The fact that they have to deal with a reality they both share keeps them from turning against each other again. Since the ultimate question what a free and equal society should be like is now bracketed from the daily business of representation the political paradox is effectively bracketed, too.

The very fact that reality appears to be produced by neither the people nor the state establishes the particular equality between them that is necessary to institutionalise the *horizontality* of their relationship (and thus to end the chicken-and-egg quandary of who is supposed to execute sovereignty). State and people are equal precisely because neither of them is perceived to be the source of societal reality. They are equal because they both respond to a reality that is predominantly generated outside their relationship. It is this epistemic condition, I argue, which allows for ‘the locus of power’ to become ‘an empty place’, following Lefort’s (1988: 17) famous formula. Power can be ‘delegated’ to ‘representatives’ of the people without invoking the paradox of politics only if the state and the people are both on the same side of reality, that is, as long as both are the receivers of the same reality and the state does not endeavour to create the reality ‘for’ the people. From this perspective, power is limited not so much because liberal constitutions protect the liberties of individuals (this would be the normative explanation), but first of all because it is the power to *react* to a commonly shared reality and not the power to *create* reality anew.

Three important clarifications as to the use of terminology are in order at this point: the first concerns my use of the word ‘people’. So far I have used the term as a category

designating the aggregate of individuals that are part of a polity (be it in their appearance as separate individuals or as collectives) as opposed to the state as the power structure governing the polity. In liberal democracy, however, it seems inadequate to refer to the people as a separate realm from the state and the market. The market, after all, is just another dimension of the people and not a physically separate sphere. It also seems inadequate to juxtapose the state and ‘the people’ any longer, since under conditions of formal self-governance, the state is made up of the same people that it governs. Hence I will from now on resort to a different term than ‘people’, one that better grasps the functional dimension of the separate spheres. I will call this realm, in accordance with Habermas (1974; 1989) and others, the *public sphere*. For Habermas, the public sphere is ‘first of all a realm of our social life in which something approaching public opinion can be formed’ (1974: 49). For Nancy Fraser, who is critically endorsing Habermas’s conception of the public sphere, it is an

‘arena of discursive interaction’ that is ‘conceptually distinct from the state; it is a site for the production and circulation of discourses that can in principle be critical of the state. The public sphere in Habermas’s sense is also conceptually distinct from the official economy; it is not an arena of market relations but rather one of discursive relations, a theater for debating and deliberating rather than for buying and selling. Thus this concept of the public sphere permits us to keep in view the distinctions among state apparatuses, economic markets, and democratic associations, distinctions that are essential to democratic theory’. (Fraser 1992: 110-111)

I regard the term public sphere appropriate as a substitute for ‘people’ in that it designates the sphere in society where representations of the people become visible, that is, where public opinion is produced, distributed and processed. It is the sphere in which articulations of public concern take place and are perceived by others. The public sphere sets itself apart from both the market and the state as the realm of discourse concerning activities in the other spheres. However, I do not introduce the term here in order to signal

unconditional support for the discursive models of democracy inspired by Habermas. The account of the public sphere delivered by Habermas in 1962 (published in English as Habermas 1989) is problematic on several levels, one being that it ‘idealizes the liberal public sphere’ in its putative capacity for ‘unrestricted rational discussion of public matters’ (Fraser 1992: 113), and another that it stresses a ‘singularity of the bourgeois conception of the public sphere’, claiming ‘to be *the* public arena, in the singular’ (*ibid.*:122). I agree with Fraser’s call for a ‘critical reconstruction’ (*ibid.*: 111) of the concept and support her analysis that there is not one public but a range of different publics, including what she calls ‘*subaltern counterpublics*’ (*ibid.*: 123).

The way I want to use the term ‘public sphere’ in my own theoretical framework differs from Habermas’s precisely in that it is not a normative concept that is imbued with the aspiration to rationality and consensus. Instead, I use the term as an analytical concept that designates the realm of discourse, the realm of divergent and plural representations of the people and its presumed will. Neither impartiality nor equality nor reason is implied in this notion of the ‘public sphere’. Quite to the contrary, the public sphere is sometimes more like a battlefield where voices get muted by brute force of corporate, political or media power, where inequality of access, the partiality of arguments and the masquerade of private as public interests are commonplace. The public sphere is neither virtuous nor evil; it is simply the realm where society becomes tangible as a mediated and discursive public.

The second clarification regards the use of the word ‘state’. I have so far used the term without defining what I mean by it and, in particular, without distinguishing it from the term ‘government’. The reason I did not use the word ‘government’ instead is that I believe the relation between the people and the institutions it commands by virtue of its

constitutional sovereignty comprises not only the respective government in power but also the appending bodies of public authority which live, to a certain degree, a life separate from elected government. The state is the power structure whereas the government exercises the power the democratic state endows it with. In what follows, especially in Chapter 3, it will sometimes be necessary to distinguish between the state (as a comprehensive structure) and government (as the political agent representing the state), but in as far as government enacts the logic of the state, the state is the appropriate analytical unit to be juxtaposed to the public sphere and the market.

The third clarification concerns the legitimacy of analytically separating the three spheres (the market, the public sphere, and the state) as if they actually were different sectors of society. My argument is that the public sphere, the market and the state are *functionally* separate in that they perform different roles in the construction of liberal-democratic *reality*, although one and the same individual may be simultaneously a civil servant of the state, a consumer in the market and an active citizen in the public sphere. State, public sphere and market cannot easily be disentangled in their physical materiality and in the relations of power that interlock them. But they are functionally different entities that generate a particular discursive matrix that delimits the bounds of agency and change, as will be discussed in detail in Chapter 3.

1.4.2. Opacity and transparency

In the last subsection I have established the argument that in a liberal democracy the market functions as a source of reality that is perceived to be independent from the relation of the state and the people and that, therefore, the relationship of the people and the state can be stabilised vis-à-vis this independent reality. However, this brings up the important

question of what endows the market with this kind of power. What makes the market a suitable social institution or structure to fulfil this role? After all, being society's independent source of reality means taking up the epistemic position that God held in the feudal structure of legitimacy. What, then, makes the market the modern epistemic equivalent of God?

The answer is that the mode the market employs to produce societal reality is, similar to divine will, profoundly *opaque*. The reality the market generates is such that the causal relations inherent to its generation are eclipsed and that the mechanisms that generate societal reality therefore appear as a *black box*.

The way in which such opacity is achieved is in that '[t]he price system operates as a veil, concealing from people how their actions impinge on the lives of others' (Pennington 2003: 724), concealing the causal relations that lead to the generation of both the product and its price. Even more to the point, one might say that the price system operates as a mirror, reflecting only the individual choice, but concealing the reality behind it. To be sure, the economic factors determining market prices (like the relation of demand and supply) have been understood and theorised by classical economists since the eighteenth century. It is therefore clear that a high price might have something to do with short supply or high demand or both. But what the price system does eclipse from the surface of social coordination is the personal relation of the actors in the market and all the individual judgements involved in establishing the price: the price itself is the abstract condensation of a complex web of concrete social interactions (and political relations). It is a mere cipher but it is all that 'counts', as it were, and is therefore the closest one can get to a 'quasi-objective' value in social relations.

According to the ‘epistemological’ theory of the market, put forward most notably by Ludwig von Mises and Friedrich A. Hayek (and which is better known as the ‘Austrian School’ of economics [Gamble 1996: 13-15]), the essence of the market lies in its epistemic properties. Hayek referred to the market (and to other ‘evolutionary’ social institutions like language) as a spontaneous order (*cosmos*), as opposed to created order (*taxis*) (Hayek 2003: 37-57). Put simply, spontaneous orders are ‘the results of human action but not human design’ (Horwitz 2004: 308). As Horwitz points out, ‘the evolutionary processes of the market, and of human culture and society more broadly, unfold in ways no one designed or necessarily intended, even though each step of the way is itself an intentional choice by individual actors’ (*ibid.*). The crucial argument in Hayek’s social ontology is that human existence in a society is, to a large extent, predicated on the existence of spontaneous orders. Pennington explains this point thus:

‘In order to act within society, individuals must accept certain rules, such as those of grammar, without consciously thinking about them. Such rules and categories are themselves part of a spontaneous social order that is not the product of conscious reason but, as in the case of language, nonetheless facilitates reasoned action’ (2003: 726).

Hence, ‘[f]or Hayek, it is the undesigned and unintended institutions of the marketplace that make it possible for individuals to engage in rational planning at the micro level’ (Horwitz 2004: 309). Without the smooth epistemic surface that the spontaneous price system provides, individuals were pitted against each other in interpreting each and every fact of their (economic) reality. Only the opacity of the market and the resulting ‘objectivity’ of the facts it produces, provides the opportunity for agreement on prices and thus for efficient economic action and planning. Hence, spontaneous rules have two enabling effects on social coordination: first of all, they simplify reality in that they

constitute a kind of ‘surface’ on which conscious action can take place. Everything underneath the surface (grammar; or the myriad facts that generate market prices) is eclipsed from consciousness, thus ‘relieving’ consciousness from its dead weight. In the case of markets, a large amount of social coordination is taken over by ‘extra-linguistic’ modes of communication (Pennington 2003: 722), such as binary ‘buy/sell-decisions’ or the expression of value in universal exchange equivalents (money). These acts of simplification make social coordination more efficient, in that they enable the communication of extensive aggregated knowledge in a single cipher (i.e., a price). The cipher, however, eclipses the knowledge underneath it. The result is a smooth surface of universal interaction underneath which there is a realm of profound opacity.

This leads, at the same time, to the second enabling effect: the opacity of the market creates a general anonymity of all participating subjects, which amounts to a certain perception of ‘justice’ and ‘objectivity’ in terms of subject-independent conditions of interaction. It is therefore revealing when Hayek, taking up an old scholastic debate about the establishment of a just price of labour, argues that ‘only that “natural” price could be regarded as just which would be arrived at in a competitive market where it would be determined not by any human laws or decrees but would depend on so many circumstances that it *could be known beforehand only by God*’ (Hayek 1993: 132, my emphasis). The equivalence between the market and God, established here in Hayek’s own words, is predicated on the fact that the ‘natural’ price is the accumulative effect of ‘the activities of myriad individual agents’ (Madison 1990: 93, cited in Pennington 2003: 726) that no single human will or intention can be singled out. Anna Galeotti neatly sums up the gist of Hayek’s epistemic theory of the market:

According to Hayek, the spontaneity of the rules makes them similar to natural laws. [...] The first conclusion [from this] is that uncreated rules are by definition not oppressive: Since we cannot say that the law of gravity is coercive, we can say that spontaneous rules protect liberty. [...] The second conclusion is that since uncreated rules are not the outcome of human design and are outside the possibility of control and change, only the invisible hand can effectively modify them. (Galeotti 1987: 175)

It is crucial to keep in mind, however, that it is one question what the market really *is* (whether it really offers a superior notion of justice; whether its facts and laws really are ‘natural’; whether it really does not involve any form of coercion, etc.) and another what its *epistemic properties* are. My argument is not based on a moral theory of the market, but on a phenomenology of its epistemic effects. Whatever the market really is, it produces an opaque core of societal reality that can be used to establish the epistemic form of legitimacy I have outlined above. For the functioning of the liberal democratic order its perceptual functions are more relevant than their moral or ontological interpretation. This, it should be noted, is also the difficulty in reading Hayek. He was at the same time an ideologue propagating the moral superiority of the market order and a social scientist offering insights into the epistemic structure of the market. As Andrew Gamble points out, Hayek the ideologue and Hayek the social scientist ‘are hard to disentangle, because Hayek for the most part saw no reason to keep them apart. His ideological views flow from the same methodological assumptions as his scientific work, and his writings are all part of the same intellectual project’ (Gamble 1996: 2). The difficulty in reading Hayek is thus that any epistemic point he makes is immediately converted into a moral argument: the fact that the market’s opacity erases all relations of personal accountability for the facts the market creates is immediately converted into the argument that the market is therefore non-coercive and that all individuals operating within its structure are ‘free’.

‘Liberty’, for Hayek, is ‘that condition of men in which coercion of some by others is reduced as much as is possible in a society’ (Hayek 2006: 11). Crucially, however,

“freedom” refers solely to a relation of men to other men, and the only infringement on it is coercion by other men’ (2006: 12) and any kind of ‘natural’ constraint is therefore compatible with freedom. Hence, ‘[t]he rock climber on a difficult pitch who sees only one way out to save his life is unquestionably free, though we would hardly say he has any choice’ (*ibid.*). This argument unveils Hayek’s strategy of conflating his epistemic insights with his ideological mission: he reduces his concept of coercion to such acts of force and compulsion that originate *directly* from *identifiable* human agents and their *created* institutions. His ‘liberty’ therefore accepts coercion as long as it cannot be traced to identifiable agents who could be held accountable for a given reality. *The dividing line is the veil of opacity*: whatever reality is created behind that epistemic veil is deemed ‘natural’ and therefore a fact we have to accept like the rocks we climb. Whatever reality that is *visibly* created before the veil, however, must be ‘coercive’ because one can now see that actual subjects are responsible for actual decisions and actions. The more there is opacity, therefore, the more there is liberty; the more transparency, the more coercion.

The important point is to disentangle these two separate levels of analysis: Hayek is right that a reality created behind the veil of opacity is generally *perceived* as natural and therefore accepted as part of a given world and that transparent social relations, conversely, reveal the powers that are at work within them and are therefore open to contestation. But his application of the terms liberty and coercion in this regard is highly problematic. The former level of analysis is the interesting one from a theoretical perspective; the latter one is of no import for my project.

Epistemically speaking, Pierre Rosanvallon is thus right when he says that the market ‘is the equivalent of a kind of “hidden God”’ (2006: 151). It does indeed take up the position

of God as a producer of a given and incontrovertible reality. And it is interesting to note that the feudal mode of constructing royal legitimacy as ‘an expression of God’s inexorable will, that is to say of man’s passivity – a passivity which is simultaneously inescapable and desirable’ (Holmes 1982: 168) employed similar arguments for its cause as did, for example, Hayek, to defend the ‘natural’ authority of facts in a market-created reality. French theocrats like de Maistre and de Bonald, who were fervently campaigning for the restoration of monarchy in the wake of the French Revolution, for instance, used the analogy of language in their struggle against the human will creating its own order, in an exact analogy to Hayek’s line of reasoning: ‘Like language itself’, they argued, ‘the Legitimacy of a royal line cannot be “invented” by the puny will of human beings’ (Holmes 1982: 168). The royalists indeed mobilized against the idea of a ‘created order’, just like Hayek did, only to defend not the liberty of the market, but the God-given legitimacy of the king. De Maistre writes, in an attack against the Jacobins: ‘He, who has not the power even of making an insect or a blade of grass, believed that he was the immediate author of sovereignty, the most important, sacred, and fundamental thing in the moral and political world (...) while he is surrounded by incontrovertible proofs that every sovereign family reigns because it is chosen by a superior power’ (cited in Holmes 1982: 169). Hayek would have had to change only parts of the quote to conform it to his own needs. Both theocrats and epistemic liberals reject the idea ‘that society is something which can be rationally designed and constructed according to a blueprint’ (*ibid.*). And although they are opponents in political terms, they defend a similar model of legitimacy: society is pacified in that social order emerges from a realm to which human will has no access and is only then refined by conscious agency.

Now that I have shown in detail the analogy between the epistemic role of God and of the market in constructing legitimacy in feudal and liberal-democratic regimes, respectively,

my schematic model of the ‘epistemic legitimacy’ of liberal democracy can be completed by adding the ‘sphere of opacity’ created by the market (*Fig. 1.8*):

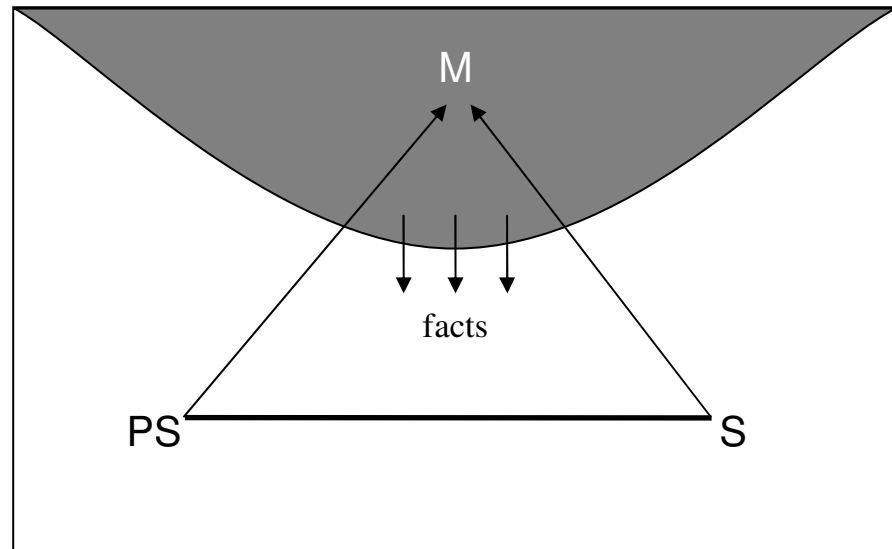


Figure 1.8: Epistemic legitimacy in liberal democracy

The market (M) as the ‘opaque source of reality’ produces an abundance of facts (in the form of goods and services, but also in the form of technological innovation, dynamic social relations, upward and downward mobility, wealth and poverty, opportunities and failures and all sorts of societal and environmental side effects). These facts attract the gaze of the public sphere (PS) and demand the attention of the state (S): both look at the source that is constantly emitting the brute facts of societal reality. As a consequence, they no longer direct their gaze at each other. A simple economy evolves that exchanges facts for attention: the more facts there emanate from the opaque sphere, the more the attention of the public sphere and the state is consumed by them. This is not only an attention fuelled by amazement, but by bare necessity: since the facts *are* coming out of the opaque sphere, they *need* to be dealt with – economic opportunities, employment rates, social tensions, environmental problems, the distribution of wealth, the regulation of innovation: these are

all interpretations of and reactions to the raw data that are emanating out of the opaque sphere and they all need to be *managed*. Hence the state and the public sphere *cannot but* engage in an institutionalised debate (politics) over how to manage these phenomena.

This necessity to confront the phenomena produced by the opaque sphere therefore leads to the establishment of the new bond between the state and the public sphere: they are in the same boat, as it were, they talk about the same things, they share the same reality. Only now can the state function as that institutional node that is surrounded by the public sphere like an island is surrounded by the sea; only now can the state be conceived as the ‘empty place’ of power, a structure that is always only tentatively filled with a power that is ultimately granted by the people. Those wielding power are now ‘representatives’ of the people for the task of managing reality, entering the structure of the state for some time. The state is the manager of societal reality while the public sphere is its discussant and critic.

The opacity of the market is contrasted, however, with the transparency that is typical of the political realm. For analytical reasons, we need to keep two aspects of transparency apart, however. One is the normative imperative of transparency within liberal-democratic politics (Smith 2009; Wingo 2003: 17; Fenster 2005; Dahl 1989: 108f.; Honig 2007: 1) and refers to the fact that democratic and constitutional politics require a transparent relation between state and public. This involves ‘the ability of citizens to scrutinise the activities of institutions’ (Smith 2009: 25) and requires that procedures like parliamentary debates and decisions are made public, the state’s actions are based on the rule of law, and governmental action is responsive to public concerns. Via the party system and parliament,

the state opens up to the public sphere and an institutionalised exchange between both spheres is established (Fraser 1992: 134).

For our purposes of analysing the epistemic structure of liberal democracy, however, the second – epistemic – aspect of transparency is even more relevant: that any effect can be traced back to its cause. From this perspective, the state as a hierarchical and formal system of power is transparent by definition; an authoritarian or totalitarian state, on this view, is even more transparent than the average democracy, since the causal relations are even clearer. A fully transparent society would, according to this epistemic definition, have to be a totalitarian one by necessity. ‘Totalitarianism’, according to Rosanvallon, is therefore ‘the last word of the utopia of social transparency’ (2006: 186).

Generally speaking, we can thus define the realm of the state as that of transparency and that of the market as that of opacity. Accordingly, societal reality in a liberal democracy is divided into an opaque part and a transparent part. Some facts are perceived as independently given (by the market) and others as resulting from political decisions (in the state). The latter normally regard the regulation, administration, control or distribution of the former. The relation between the opaque and transparent portions of reality is, of course, variable and this variability has an almost mechanical effect on the *axes of gaze* which constitute the perceptual regime of liberal democracy. The firmness of the epistemic bond and thus the epistemic legitimacy of the regime hinges on the relation of opacity and transparency in its construction of reality.

1.4.3. Axes of gaze

In principle, two antipodal scenarios can be described, with a lot of leeway in between. In scenario (A) reality is dominated by the market. Opacity dominates over transparency, resulting in a firm epistemic bond between the state and the public sphere (*Fig. 1.9*):

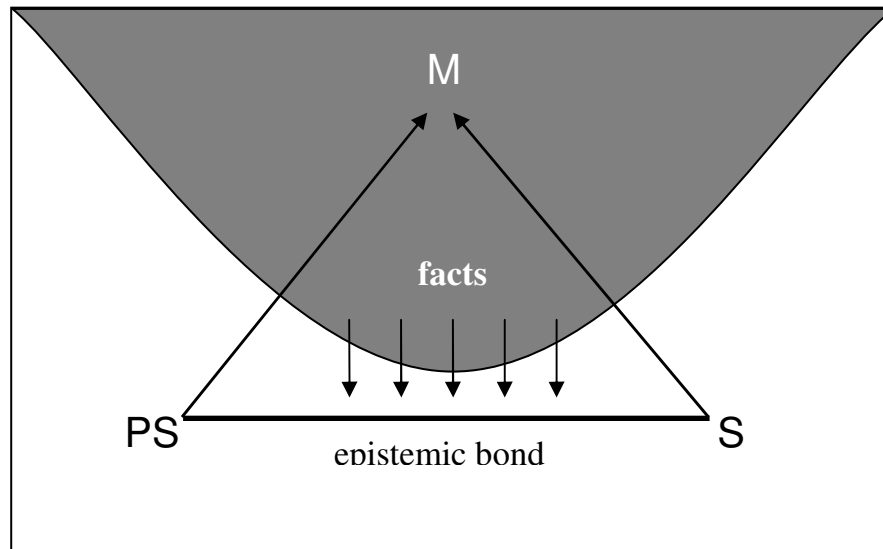


Figure 1.9: Scenario A: market dominates reality

Scenario (B) is one of low opacity and high transparency. Here, the state is the dominant source of reality. This scenario is characterised by a weakened or disintegrating epistemic bond, leading to a perceptual opposition of state and public sphere: since the state is generating more facts than the opaque sphere, state and public sphere no longer share the same reality (*Fig. 1.10*).

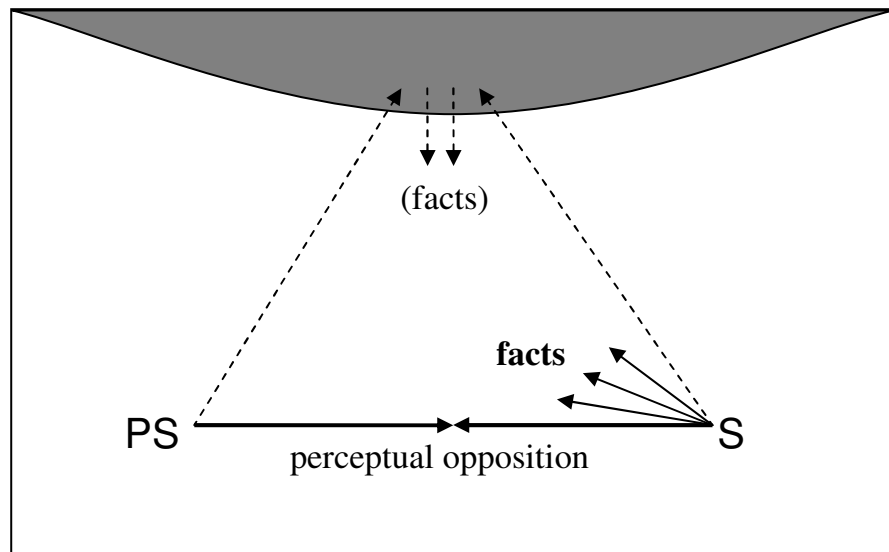


Figure 1.10: Scenario B: state dominates reality

The mechanism regulating the axes of gaze is quite simple: as long as abundant facts are emanating from the opaque sphere, the gaze of both state and public sphere is directed towards it, generating the epistemic bond between them. However, if the state rolls back the opaque sphere or if the sphere does not generate sufficient facts, the state by definition has to fill in the gap and has to take up the role of producing facts. The larger the transparent portion of reality is, the less can the state content itself with ‘reacting’ to facts, since there are less facts available that appear as independently given. More and more facts will by necessity be produced by the state itself. However, the more the facts of societal reality are perceived to be the work of the state, the more the public sphere will critically observe the state and scrutinize its operations. It will take its eyes from the opaque sphere (since that no longer contributes significantly to societal reality) and turn to the state as the new primary source of reality. By this point, the epistemic bond between the public sphere and the state will be torn, since the state is now the source of a reality that is received or endured by the people (who debate about it in the public sphere). Suddenly, the old

opposition is back in place and the doors are wide open for the re-emergence of the paradox of politics.

However, an important *caveat* is in order at this point: the fact that the state is the primary source of reality in a predominantly transparent structure does not mean that the epistemic opposition between state and public sphere *necessarily* turns into a political opposition, or at least not immediately. There are circumstances in which a state-controlled reality in a democracy can be endorsed by the public for quite a long time and thus be relatively stable. An example of such a scenario would be the twenty-odd years of ‘social consensus’ in the aftermath of World War II. ‘Nearly all political parties throughout the 1950s and 1960s believed that in office they should intervene’ in the market ‘to reform the position of the unjustly privileged and aid the position of the underprivileged’ (Held 2006: 186). ‘Only the politics of a “caring state”, embodying concern and fair-mindedness, specialization and expertise, could create the conditions whereby the welfare and good of each citizen were compatible with the welfare and good of all’ (*ibid.*). Such ‘social consensus’, however, was premised on the almost complete destruction of the market economy during the war. Europe was on its knees and a tremendous effort on the part of governmental planning and stimulation was needed to produce enough ‘facts’ to feed its population. The state’s intervention was a clear reaction to the independently given facts of a destroyed economy; in that sense, the state remained ‘reactive’ even in its interventionist role: it reacted to the negative phenomenon of war, and to the absence of an independent source of reality. Production soon picked up and until the late 1960s, the post-war years were characterised by unprecedented economic growth and high employment rates, generally increasing wealth and staggering technological progress. In sum, in these ‘boom years’ it did not matter whether the abundance of facts was produced by the opaque sphere of the market or

(its production directed) by the transparent sphere of the state, as long as the facts were overwhelmingly perceived to be 'positive'.

The epistemic opposition between state and public sphere starts to become palpable, however, as soon as the facts for which the state is accountable are perceived to be ambiguous and contingent. Only then the state's 'intervention in the economy and other spheres draws attention to issues of choice, planning and control. The "hand of the state" is *more visible and intelligible* than "the invisible hand" of the market. More and more areas of life are seen by the general population as politicised; i.e. as falling into the state's (via the government's) potential control' (Held 2006: 196, emphasis added). Hence the state stumbles into a 'legitimation crisis' as described by Habermas (1988) and Offe (1984). The outcome is well-known: the economic downturn of the early 1970s was seen as a result of the state's role in shaping reality and the state was blamed for the now disappointing facts it produced. The withdrawal of the state, the rise of neo-liberalism and the re-empowerment of the opaque sphere of the market were the logical consequences.

It is therefore important to understand the opacity and transparency involved in political organisation as constituting a continuum rather than clear-cut black-and-white conceptions. It is practically impossible to conceive of an absolutely transparent political order as well as of a regime that is totally opaque. The important point is, rather, to understand the ways in which opacity and transparency are variably employed in regimes as mechanisms to engender political legitimacy. A regime without sufficiently opaque modes of social coordination will run into the danger of activating the political paradox and thus of destabilising itself; one without sufficiently transparent modes of coordination, in turn, will run the risk of breeding political disenchantment and a growing distrust in political elites.

In other words, a lack of opacity leads to an *epistemic* crisis of legitimation while a lack of transparency leads to a *normative* one. Thus, modern political regimes are forced to strike some kind of balance between both modes of social coordination.

Different forms of capitalism and different forms of liberal democratic state organisation occupy a range of points on the continuum between pure opacity and pure transparency. Within the liberal democratic family of regimes, for example, the Scandinavian-type welfare state represented (and to some degree still represents) a position that is conspicuously less opaque than, say, the political organisation of the United States. In Sweden, a relatively large amount of facts that make up societal reality can be openly related to political convention and state action. This should not make us forget the fact, however, that at the core of the Swedish system is a very strong (opaque) market economy that creates more wealth than in most other countries around the world. On this basis, the rather more egalitarian and communitarian political culture in Sweden is in the position to employ more transparent means of social coordination than other liberal democracies would do without encountering significant problems of epistemic legitimation. The Swedish model would perhaps fail, however, when applied to a more individualistic political culture like that of the United States.

China is another interesting point in case. Nominally a communist country it is deeply enmeshed in the capitalist world system and employs increasingly opaque mechanisms of internal social coordination. According to my model, the Chinese predicament can be interpreted in that the communist party as the ‘transparent’ core of the system is dependent on an enormous economic growth rate in order to ward off the epistemic crisis of legitimation it would otherwise encounter. If growth failed, the eyes of the public would

immediately be on the party elite as the ‘people ruling’ who would then be held directly responsible for all the facts that constitute societal reality in China. The ‘epistemic bond’ between the party elite and the people would be torn and the party would have no other option than to replace it by ontological means, that is, by narratives about the common good and the purpose of that particular political order – and conceivably by brute force. Since the ontological legitimacy of the Chinese regime is rather fragile, however, the system can only survive under the condition of an exceptional economic development that serves as an ‘independent source of reality’ to the Chinese public and thus keeps the epistemic bond intact.

The increasing ‘globalisation’ of economic and political relations is another source of opacity in the contemporary world system. The more a polity is economically integrated into the world market, the more the internal reality of that polity can be depicted by the ruling elites as determined by external factors like the global economy. This strengthens the epistemic legitimacy of ruling elites worldwide, whether democratic or authoritarian. The ‘global financial market’, for example, has recently served as a quasi-objective (external) source of reality that determined political and economic circumstances in many polities around the world. While I am not contending that the problems emanating out of this sphere were ‘real’ in a monetary sense, I want to highlight the fact that politicians around the world readily accepted it as an independent source of reality and portrayed the predicament of their own countries as almost entirely determined by external (‘global’) forces.

Another source of opacity are supranational political structures, which make large parts of the political reality of affected countries appear determined by factors external to the

nation-bound state, as in the case of the European Union (EU). Decision-making in the EU involves a variety of stages and procedures, which, taken by themselves, are formally transparent but, taken together, constitute a source of epistemic opacity.¹² The pathway from the original policy input to the eventual outcome is often very difficult to retrace and the causal relations between the various political forces and interests are blurred. As a consequence, the final outcome of the process often presents itself as an objectified fact that can be used domestically as another piece of ‘external’ reality by politicians of the member states.

The political elites of EU member states can (and do) therefore rely on both the globalised economy and the complex European political structures to increase their epistemic legitimacy. The drawback of this enormous reservoir of epistemic legitimacy, of course, is the danger that the general public feels disaffected by the political system and withdraws its participation and support – which leads to a *normative* crisis of legitimation asking for more transparent and effective structures of collective (and perhaps supranational) decision-making.

One important lesson to be derived from the analysis of the perceptual regime of liberal democracy is that the liberal democratic state, as a general rule, has to take on a *reactive position* towards the phenomena that are perceived to constitute societal reality. In order to keep the destructive paradox of politics at bay, it needs to restrict its own action – as far as possible – to the reaction to a reality that must largely appear as being given independently of the state’s own planning.¹³ If that reality is bleak (as in the case of war and its aftermath)

¹² For a detailed discussion of the opacity involved in EU decision-making, see, e.g., Thomson et al. 2006 and Franchino 2007.

¹³ In this sense Stephen Holmes is right when he claims that ‘[l]imited government is, or can be, more powerful than unlimited government’ (1995: xi); unlimited government would, under modern democratic

the state reacts in reconstructing the economy; if that reality is prosperous the state reacts to it as its mere administrator. The important point is that the representatives of the people (who govern the state) are never perceived to be the authors of the entirety of the people's shared reality. This lesson about the reactive nature of the liberal democratic state is, of course, of the utmost importance for the analysis of the limits to purposive societal change in liberal democracy.¹⁴

1.5. The 'limits to change': a first approximation

The main characteristic of the epistemic architecture of liberal democracy with regard to the possibility of change concerns the double role of the state as (a) a *reactive* agent in the 'transparent' sphere and (b) an *active* agent as the covert constructor and guardian of the perceptual regime itself; in order to be continuously *perceived* as (a) the state also needs to *be* (b). It follows that due to its role as (b), the state cannot actively change the economic order in a way that would threaten the integrity of the perceptual regime; that is, it cannot take actions that make societal reality at large be perceived to be 'authored' by the state. For example, the state cannot take actions that would destroy or significantly reduce the opacity of the market order as long as it is not forced to do so by 'external' events (like wars). This, in turn, means that change itself cannot or can only in a very limited sense be 'authored' by the state, since the state's primary function is to *react* to change but not to *create* it. 'Change' writ large, it seems, cannot come from the liberal democratic state. This

conditions, invariably fall prey to the destructive forces of the political paradox that defines the core of the modern political ontology. Only by limiting government to a reactive position vis-à-vis societal reality can it achieve stability and (epistemic) legitimacy.

¹⁴ This view of conceiving the liberal-democratic state as a reactive mechanism can also be found in the work of Claus Offe (1975; 1984; 2006), albeit from a post-Marxist perspective which derives the state's reactive role from its dependency from the tax-income that is generated through processes of capitalist accumulation (Offe 1975: 144). The dependence of the liberal-democratic state from capitalist tax-income and the structural constraints this implies for the state's own scope of action is also stressed by neo-pluralists like Lindblom (1977) and Dahl (1985). I consider the explanatory power of their monetary account to be limited, however, and trust that my epistemic account is able to offer a fresh view on this problem.

– admittedly rather bold – claim will be refined and supported with some empirical arguments in Chapter 3.

As a general rule we can therefore establish that in a liberal-democratic order, change ideally comes as something ‘external’, something to which the state has to react. Change comes as ‘technological progress’, as ‘scientific innovation’, as economic growth or as economic crisis, as ‘terrorism’ or as ‘environmental problems’ but not as an open attempt on the part of the state to alter the way society should define its own purpose. Undeniably, however, the state is confronted with tasks articulated in the public sphere as to the overall change of processes of societal reproduction. Some such demands amount to calls for the state to actively change the ‘societal metabolism’ (*cf.* Fischer-Kowalski and Haberl 2007) of late-modernity and to effectively enact a new form of (*e.g.* post-fossil) economy. For reasons that are obvious by now, such calls are highly problematic for the liberal-democratic state and they would remain problematic even if public opinion would strongly support them (as it does in some cases). The problem for the state is, again, that in order for it not to become liable for the problematic dimensions of reality as such, change must at least *appear* to come ‘naturally’ and thus as a something ‘we’ need to react to and not as something ‘we’ create consciously – where the ‘we’ designates all those united within the epistemic bond. Even if the state had the will to enact such change, it would have to make sure that change diffuses into the opaque sphere and returns to the stage of transparent administration as an unrecognisable fact (as in the case of steering by fiscal measures: the resulting facts are perceptually detached from state action as they re-emerge out of the opaque sphere). This, of course, constitutes a fundamental limitation to state-agency in liberal-democracy, since the state must ‘hide’ the change it wants to enact, so to speak, in different agentic vectors than the ones that are perceived to be its own.

Hence, in order for change not to destabilise the epistemic architecture of liberal democracy it must be of a kind that strengthens rather than weakens the epistemic bond between state and public sphere; it must not be perceived as a rupture commanded by the state. Societal change in a liberal democracy is therefore best understood in terms of *transformation*, as a continuous metamorphosis of the sense of normality that regulates the discursive exchange between state and public sphere; change gets incorporated into the sense of normality precisely if (and only if) it emerges outside the relation of state and public sphere, as something that needs ‘public attention’. As an ‘independent’ fact (like rising oil prices, nuclear disasters, hurricanes or failing banks) it needs to be dealt with by the whole public, that is, by the public sphere as the locus of discourse and by the state as its authorised agent. Even if it is of dramatic nature and consequences, it will be incorporated into the epistemic mechanism regulating the relationship of state and public sphere, as long as it does not emerge inside that relationship. Change, as long as it hits against the epistemic bond like the tide hits against the shore, can only strengthen the epistemic bond itself. As soon as change is imposed by the state on society, however, it divides the public realm into producers (the state) and recipients (the public sphere) of reality and destroys the epistemic bond between them. The state is therefore structurally required to channel change into forms of agency that make it appear as a continuous and ‘normal’ process of transformation – as the ‘natural’ development of society and its diligent administration by the state.

Chapter 2: Change and Transformation

2.1. Change and ‘epistemic legitimacy’

I will argue here that change, in a liberal democracy, is a highly controlled and regulated phenomenon: it is kept within invisible bounds in that it is channelled through the corridors of bureaucracy and streamlined by the requirements of liberal-democratic governance. The most paramount of these requirements, as was argued in Chapter 1, is to keep intact the ‘epistemic architecture’ upon which the functioning of liberal-democratic legitimacy rests.

That change is not left to itself in liberal democracies is a clear consequence of the notion of ‘epistemic legitimacy’ as developed in the first Chapter. For liberal-democratic regimes, according to this idea, change can be a *threat* if the state is perceived as its author or origin; on the other hand, change can even *enhance* the stability of a liberal-democratic regime if and as long as it is perceived to originate from *outside* the relationship of the state and its people (manifest in the public sphere), that is, if it presents itself as an ‘independent’ force to which the state and the public sphere have to respond.

What, however, does it mean to speak of change coming ‘from outside’, of change being ‘independent’ from the state and the public sphere? Surely societal change cannot be independent of the regulative and political structures of the state in advanced capitalist societies? We need to keep in mind that we are still dealing within the register of perception here. Change that is *perceived* to be independent from and exterior to the state does of course not need to be independent of it in actual fact. The epistemic architecture of the liberal-democratic state, however, commands the state to *organize* change in a particular way in order to safeguard its own integrity. Change has to be staged and

channelled so that certain forms of change are allowed to happen while others are suppressed; most of all, as I shall argue in this and the next Chapter, change is given a 'direction' by the liberal-democratic regime: whatever its causes and aims, it must move from an opaque 'outside' towards the transparent 'inside' of politics, where it can be treated as a configuration of 'independent facts' to which some 'public' response is sought. Hence the field of policy-making can be presented as the realm in which rational responses are generated to the stream of 'independent' phenomena that can be summed up as 'progress' or 'history'.

The great epistemic effect that is achieved by the constant channelling of change from the 'outside' of the public realm towards its 'inside' (or from 'opacity' towards 'transparency') is the maintenance of a common sense of 'normality'. Change is perceived as 'normal', as it were, when it can be interpreted as the 'normal' course of history, as something largely external to any particular will. 'Willed' change that is not a mere reaction to 'normal' change is perceived as 'odd' in the sense that it requires a form of legitimation that would open up the paradox of politics as discussed above. The liberal imperative of 'state neutrality' is normally presented as a moral doctrine (*cf.* Dworkin 1978; Ackerman 1990). However, from the epistemic perspective offered here, it reveals itself to be a necessity of the epistemic architecture of liberal democracy. Neutrality here means anonymity: the forces of change need to originate from an opaque sphere in order not to spark the interminable quest for legitimation. 'Normality' is thus the common (and meticulously fabricated) perception of history being a 'natural' process of progress and development, with all its conflicts and setbacks being necessary parts of it and with the state as the competent manager and impartial arbitrator of social interests. This sense of 'normality' is

the basis on which the epistemic architecture of liberal democracy rests; it is the material of which the ‘epistemic bond’ between the state and the public sphere is woven.

Societal change at large, in a liberal democracy, therefore takes on a particular form that is defined by the continuous experience of a sense of ‘normality’ while the ‘contents’ of that normality gradually changes. This form of change is best characterised as ‘transformation’. The term transformation, however, refers to a paradox: it implies change without conceivable rupture; it implies a subject’s being comprehensively altered without its noticing or without this change being experienced as something alien or alienating. One might say that ‘transformation’ refers to a form of change where one ‘sameness’ turns into another ‘sameness’ without ever experiencing ‘otherness’ in the process. It is a form of metamorphosis the effect of which can only be appreciated in retrospect: a subject changes while it believes that its identity remains the same; only retrospectively can it see that what it was and what it is are two different states.

The aim of this Chapter is therefore to come to terms with the paradoxical notion of ‘transformation’ in order to be able to develop a working theory of ‘political transformation’. This is necessary for two reasons: firstly, if I am right and ‘epistemic legitimacy’ is the most important structural constraint (as well as enabling mechanism) of a liberal-democratic regime, then ‘transformation’ (the form of change that does not interrupt our continuous sense of ‘normality’) is the only form of comprehensive societal change a liberal democracy can cope with. Hence it is important to understand the ‘logic’ pertinent to transformation and to analyse further the way in which liberal-democratic regimes organise and channel all forms of change in such a way that they conform to the requirements of ‘epistemic legitimacy’ qua ‘transformation’. The second reason is a

normative one and introduces the ‘critical’ dimension of this study: if ‘transformation’ is the only form of comprehensive change liberal democracies can handle, then the question arises to what extent such transformation is accountable and responsive to democratic will-formation. In other words: if transformation relies on change coming from ‘outside’ the public realm, how much difference can a will that is democratically formed at the ‘inside’ of the public realm make to societal change at large? Put another way, the question is about the relation between democracy and capitalist ‘evolution’: how much of a democratic will survives in ‘transformation’? A thorough analytical understanding of the logic of ‘transformation’ is therefore indispensable in order to tackle the crucial normative question in this context: can ‘transformation’ be ‘democratised’; can societal change be made more responsive to democratic will-formation without undermining the stability of the ‘epistemic architecture’ of modern democracy? To answer this question should be the aim of a theory of ‘political transformation’, and in this study I hope to offer a conceptual framework for further debate. This and the next Chapter will therefore focus predominantly on the analytical dimension of the question and deliver an account of the logic of transformation as well as of the way in which liberal-democratic regimes make change and agency conform to the ‘epistemic’ requirements of transformation.

2.2. Rupture-in-continuity: the paradox of transformation

How does this paradoxical notion of ‘transformation’ work, then? How can a ‘sense of normality’ persist, while the contents of what is perceived as normal change? How can rupture be embedded in continuity without disrupting it? How is a form of change possible that is not at the same time self-alienation, the sudden separation of the new from the old identity? How can identity remain intact while its ‘contents’ change, as it were?

An answer to this conundrum can be found in Ludwig Wittgenstein's notion of 'grammar', and in particular in his observations concerning 'aspect-seeing' and 'aspect-change', as I shall argue in this Chapter. Wittgenstein's understanding of grammar will allow us to conceive of 'transformation' as a form of grammatical change – one that shifts the bounds of sense and hence the boundary between the possible and the impossible and between the normal and the abnormal. The paradox of transformation then consists in the fact that the new bounds of sense cannot be established within the old ones, at least not purposively, since they would not 'make sense' at the time of their establishment. Something else must account for that shift, something that reminds us how powerless the 'cogito' is in the face of its own grammar. Here, Wittgenstein's observations on 'aspect-change' will aid us in proposing a solution to the paradox and hence in formulating a theory of (political) transformation.

2.2.1. Wittgenstein on 'grammar'

Grammar became a guiding concept in the thought of Wittgenstein after he had re-examined his attempt in the *Tractatus logico-philosophicus* at solving all philosophical problems once and for all by means of pure logic. The turning point that ended his focus on logics and made him search for new ways of understanding the human mind is sometimes emblematised in an anecdote Wittgenstein himself circulated in later years:

According to the story, Wittgenstein, soon after his return to Cambridge, was explaining his ideas to [Italian economist Piero] Sraffa and was insisting – as he had insisted in the *Tractatus* – that a proposition and that which it describes must have the same "logical form". To this, Sraffa made a Neapolitan gesture of brushing his chin with his fingertips, asking: "What is the logical form of *that*?" (Monk 2005: 64)

Revelations like these made Wittgenstein realise that philosophy knows next to nothing about the way humans 'make sense' and that a radical change of perspective is therefore

inevitable: ‘A main source of our failure to understand is that we do not *command a clear view* of the use of our words. – Our grammar is lacking in this sort of perspicuity’ (Wittgenstein 1953: §122). The very concept of grammar therefore had to be extended or rethought, to regard ‘the use of words’ in the most comprehensive way. ‘Grammar’, according to one definition Wittgenstein gives, ‘describes the use of words in the language. So it has somewhat the same relation to the language as the description of a game, the rules of a game, have to the game’ (Wittgenstein 1974: 60). If this definition sounds rather straightforward, one should be careful not to miss the point. For here, grammar does not *determine* the use of words but *describes* it; the meaning of a word does not *command* its use, but it is the other way round: ‘[t]he use of a word in a language is its meaning’ (*ibid.*). Learning the grammar of a word (learning how to use a word) for Wittgenstein is always a matter of ‘learning from cases’, as Hanna Pitkin (1972: 50) points out. The crucial point for him seems to be that we cannot learn the ‘grammar’ of a word by making lists of possible applications of the word and by writing down its ‘meaning’ in each case, but only by ‘experience’, that is, by judging from cases of application which ‘point beyond’ themselves (Wittgenstein 1953: § 208; *cf.* Pitkin 1972: 50). Once we have established a case for the correct use of the word ‘chair’ (probably very early in our childhood), we will extend the field of applications for the concept ‘chair’, learning its boundaries and particularities on the way. Grammar ‘specifies not merely the expressions in which a word is characteristically used, but also, crucially, “what counts as an application of” those expressions’ (Pitkin 1972: 118, citing Stanley Cavell).

Thus, the grammar of “chair” tells us not merely that a chair is the kind of thing one can “sit on,” but what sort of worldly phenomena count as “sitting on a chair.” [...] What makes it a chair is the *way* we use the object, that we sit on it in that characteristic way. As Cavell says, “You can sit on a cigarette, or on a thumb tack, or on a flag pole, but not in that way. Can you sit on a table or a tree stump in that (the ‘grammatical’) way? Almost; especially if they are placed against a wall. I.e., you can use a table or a stump as a chair (= a place to sit, a

seat) in a way you cannot use a tack as a chair. [...] We could say: It is part of the grammar of the word 'chair' that *this* is what we call 'to serve as a chair.'" (Pitkin 1972: 118, citing Cavell's 'The Claim to Rationality', unpublished dissertation, Harvard University)

In using words we are unwittingly obeying a multitude of rules, but these rules are more like implicit conclusions from aggregate experiences than definitive standards we could learn like a codex of laws. 'According to Wittgenstein', Henry Staten points out, 'a rule [...] determines but need not itself be determinate. We learn to follow it, obey it, or manipulate it, and yet the rule itself is structurally or essentially indeterminate. A rule is best thought of as *an object which happens to be used as a standard of comparison within some practice or other*' (Staten 1985: 134; my emphasis). Wittgenstein is clear about the fact that following a rule is something we normally do not do *consciously*: 'And hence also "obeying a rule" is a practice. And to *think* one is obeying a rule is not to obey a rule', he says (1953: § 202). Following a rule is more like projecting an experience into further contexts, stretching its applicability and testing out its limits, as Cavell suggests:

We learn the use of "feed the kitty", "feed the lion", "feed the swans", and one day one of us says "feed the meter", or "feed in the film", or "feed the machine", or "feed his pride", or "feed wire", and we understand, we are not troubled. Of course we could, in most of these cases, use a different word, not attempt to project or transfer "feed" from contexts like "feed the monkey" into "feed the machine". But what should be gained if we did? And what would be lost? (Cavell 1999: 181)

In projecting the use of a word or of an expression into new contexts, we are applying some rules and combining them with others (we 'know' from our experience with language, for example, that analogies can be drawn or that a word transposed in a different context can unfold some powerful meaning as a metaphor, etc.), but exactly which rules we can combine, which new contexts are appropriate and which are not, is not entirely up to us. 'While it is true that we must use the same word in, project a word into, various

contexts [...], it is equally true that what will *count* as a legitimate projection is deeply controlled. [...] I might say: An object or activity or event onto or into which a concept is projected, must *invite* or *allow* that projection' (Cavell 1999: 182-3).

The way our 'concepts' (the different meanings we have attached to words by using them in particular ways) are related is thus governed by a complex system of rules we have come to call 'grammar' here. 'Grammar, one can say, establishes the place of a concept in our system of concepts, and thereby in our world. It controls what other concepts, what questions and observations, are *relevant* to a particular concept' (Pitkin 1972: 119). In a famous passage of his *Philosophical Investigations* Wittgenstein points out how grammar is at work, for example, in the concept of 'number':

Why do we call something a "number"? Well, perhaps because it has a – direct – relationship with several things that have hitherto been called number; and this can be said to give it an indirect relationship to other things we call the same name. And we extend our concept of number as in spinning a thread we twist fibre on fibre. And the strength of the thread does not reside in the fact that some one fibre runs through its whole length, but in *the overlapping of many fibres* (Wittgenstein 1953: § 67; my emphasis).

It is the metaphor of the *thread* that is particularly convincing here: what generates 'sense' in the concept 'number' is not that everything we call a number has the same definitive features, but that these diverse features 'overlap' in a way that creates a kind of cohesion between them; they are indeed like individual fibres out of which a thread or even a rope is (or can be) twisted. What 'grammar' consists of, then, are not the rigid relations between different definitions, categories and classifications (like those of 'cardinal numbers', 'rational numbers', 'real numbers, etc.), but the fluid relations of 'family resemblances' (Wittgenstein 1953: § 67).

Hence, when Wittgenstein states that ‘*Essence* is expressed by grammar’ (1953: § 371) he calls our attention to the fact that what a concept ‘means’ is a grammatical question, one of looking at the various relations that enable its meaning to emerge rather than one of attempting to pin down its meaning by giving a definition (which would, again, only create a particular ‘use’ of the concept without grasping its sphere of possibilities). Stanley Cavell fleshes this point out by playing on Wittgenstein’s admiration for Dostoevsky’s *Brothers Karamazov*: ‘There is a Karamazov essence’, he says,

but you will not find it if you look for *a* quality (look, that is, with the wrong “picture” of a quality in mind): you will find it by learning the grammar of “Karamazov”: it is part of its grammar that *that* is what “an intellectual Karamazov” is, and *that* is what “a spiritual Karamazov” is, and *that* is what “Karamazov authority” is, ... Each is too much, and irresistible (Cavell 1999: 188).

To learn grammar is, effectively, to learn *how to make sense* in speaking, writing and acting, and to learn how to make sense *of* what others say, write and do. The processes involved therein are too complex (and too fluid) to be identified as individual rules or criteria. ‘Making sense’ is not so much a question of applying ‘reason’, than a question of being initiated to and ‘trained in’ the relevant *grammar* which determines what counts as ‘reasonable’. The correct use of a grammar – and thus the ability to ‘make sense’ – requires agreement ‘in form of life’ (Wittgenstein 1953: § 241). Being part of a community of users of language, being part of a society, thus presupposes a certain ‘agreement in judgements’ (§ 242), a form of agreement without which no common ‘sense’ could be established and the meaning of symbols could not be fixed.

Crucially, for Wittgenstein, the concept of grammar is not restricted to its linguistic dimension but involves all aspects of human behaviour and social interaction. It is a *material* concept in that human action and words are inseparable from the material world

they are performed in. Grammar is what guides human interaction *tout court*. As Ernesto Laclau and Chantal Mouffe (2001: 108) point out, '[l]anguage games, in Wittgenstein, include within an indissoluble totality both language and the actions interconnected with it.' The objects we are dealing with and which form part of our world are included within this totality. Thus, '[i]t is evident that the very material properties of objects are part of what Wittgenstein calls language game' (*ibid.*). Similarly, language for Wittgenstein is necessarily a social phenomenon and the grammar that guides human interaction is thus a product of social practice – not unlike the concept of spontaneous order we found in Hayek in the previous Chapter. The social nature of grammar and the impossibility of a 'private language' – a question Wittgenstein pursues in the second part of his *Philosophical Investigations* – have been discussed in depth by Kripke (1982), Rhees (2006), and Mulhall (2007), amongst others. 'Making sense' of one's world and 'being in the world' (*cf.* Mulhall 1990) thus means, first and foremost, to be enmeshed in a web of meaning that has not been created by oneself, and to learn to play by the rules one finds to be in operation: '[O]ur agreement on how to use words and apply them in new circumstances stems from our immersion in a particular language or form of life, in which we learn its practices and rules' (Glynos and Howarth 2007: 186). 'Making sense' of (and in) *political* life is therefore very much a question of being initiated and 'trained' in a society's 'political forms of life' and hence, as I will suggest in the next section, in a society's 'political grammar'.

2.2.2. Political grammar and the social imaginary

The concept of 'political grammar' points to the conventionality of political truths, to the 'rootedness' of politics in social practice and 'forms of life', and to the constant sedimentation and slow transformation of meaning in societies. The notion of grammar

inspired by Wittgenstein points at the simultaneity of the relative durability as well as the changeability of forms of rationality and collective ‘judgements’ about phenomena of societal life. It is in this vein that Aletta Norval, in her work on ‘democratic identification’, has used the notion of ‘political grammar’.

As Norval points out, ‘for Wittgenstein grammar sets the bounds of sense’ (Norval 2006: 231). And, quoting Mulhall (2001: 176), she writes that grammar is ‘an articulated network of discriminations that inform our capacity to word the world, to bespeak anything and everything we encounter within it’. Hence, it ‘is not itself answerable to facts, but determines what may count as possible descriptions of how things are. In short, grammar is autonomous: it cannot be falsified and cannot, in itself, be correct or incorrect’ (Norval 2006: 231). Hence, what makes the notion of grammar interesting for political thought is the insight that what a subject might regard as ‘rational’, ‘expedient’, ‘prudent’, ‘adequate’ or even ‘right’ depends on conditions she does not entirely control. The condition for saying anything is to know a language (to know some kind of grammar); the conditions for articulating an opinion on something, however, is to know a language *and* to be embedded in a shared web of ordered phenomena and experiences which allows for the articulation of meaning (to know the *relevant* grammar). Political grammar thus functions as that ‘inherited background’ against which we are trying to ‘make sense’ with and against each other (politics).

[...] I did not get my picture of the world by satisfying myself of its correctness; nor do I have it because I am satisfied of its correctness. No: it is the inherited background against which I distinguish between true and false.

[...]

The propositions describing this world-picture might be part of a kind of mythology. And their role is like that of rules of a game; and the game can be learned purely practically, without learning any explicit rules.

[...]

The mythology may change back into a state of flux, the river-bed of thoughts may shift. But I distinguish between the movement of the waters on the river-bed and the shift of the bed itself; though there is not a sharp division of the one from the other.

(Wittgenstein 1972: sect. 94; 95; 97)

These passages from *On Certainty* express quite well the socio-political implications of Wittgenstein's notion of grammar, in particular the simultaneous durability and changeability that resides in the metaphor of the changing waters of the river that also slowly change the riverbed. The riverbed determines the possible flow of the water while it is itself determined by (or a product of) the water's flow. 'Political grammars', in the words of Norval, thus have to be 'understood as those horizons delimiting what is possible in any given context' (2006: 231), while they are themselves 'neither set in stone nor easily amenable to change' (Norval 2007: 106).¹⁵

Let us first get a better idea of how political grammar 'works', how the notion of 'grammar' can be applied to political life. As we remember, grammar governs 'the "possibilities" of phenomena' by regulating 'the kind of statement that we make about phenomena' (Wittgenstein 1953: §90; cf. Pitkin 1972: 121). As Pitkin puts it, 'the ways in which new instances can occur, what will count as a new instance, the avenues for conceptual growth and change, remain deeply controlled by grammar' (1972: 121). Let us consider an example of grammatical determination Wittgenstein himself brings up when he

¹⁵ The notion of political grammar suggested here is of course somewhat reminiscent of Michel Foucault's notion of the 'archive', by which he means 'the set of rules which at a given period and for a given society define [...] the limits and forms of the sayable' (Foucault 1991: 59). The analogy between the 'archive' and 'grammar' becomes even more apparent when Foucault points out that 'it is not possible for us to describe our own archive, since it is from within these rules that we speak [...]' (Foucault 1972: 130). Despite the obvious similarities between grammar and the archive, there are, however, important differences. First of all, Foucault restricts the application of his concept of the archive to what he calls 'serious discourse', namely, the discourse of science (Dreyfus and Rabinow 1982: xx). Secondly, the whole project of archaeology seems to be geared towards a systematisation of the rules of formation and transformation, towards the description of a 'system of rules' attributed with 'causal power' (Dreyfus and Rabinow 1982: xx, 74). This approach might be interesting to reconstruct the 'genealogy' of certain concepts and historical developments, but it does not offer an account of the 'logic of transformation', that is, of the way transformation itself works. Wittgenstein's grammar is a much better starting point for establishing this logic.

asks, “‘Can a machine have toothache?’” If we say that it cannot, Wittgenstein asks what sort of “cannot” that is’ (*ibid.*) and points out that even though our experience will no doubt be consistent with this conclusion, the conclusion itself will hardly be arrived at from ‘experience’. Instead, it has to do with the grammar of terms like ‘machine’ or ‘toothache’. ‘Grammar tells us that a “machine” is not the kind of thing that can feel “pain”; a “toothache” is not the kind of thing by which “machines” are afflicted. Nothing that we could experience or observe in connection with a machine would *be*, would count as, the machine’s “having a toothache”’ (*ibid.*).

However, such grammatical relations can – and do – change, sometimes. One important aspect of political grammar, I argue, is precisely that it governs the ‘grammatical’ relations between the notions, concepts, ideas and words that inhabit our political world, or, to be more precise, that in governing and changing their relations political grammar accounts for the appearance and disappearance of fields of political meaning and contestation. And any change in the grammatical relation between two concepts normally has considerable implications for other concepts or nodes of meaning. Let us consider the following question: ‘Can living beings be inventions?’ Until quite recently, it might be argued, the grammar of ‘living being’ included its autonomous reproduction: it can be changed (bred) but not ‘invented’. The grammar of ‘invention’, by contrast, typically limited the concept to non-living entities. With the emergence of biotechnology, on the one hand, and the new possibility in many countries to ‘patent’ genetically modified organisms (GMOs), on the other, this grammatical relation has irrevocably changed.¹⁶ The fact that living organisms nowadays can be ‘invented’ and thus treated as intellectual property by introducing small changes into their genome ‘lead[s] pharmaceutical, food, and seed companies in an

¹⁶ For a discussion of some of the implications of this grammatical change see, e.g., Simms 2004; Resnik 2007; Baumgartner 2006; Tsioumanis et al. 2003.

unprecedented chase around the world for the collection of living organisms that may be of some use, ranging from soil micro-organisms to animals, including human genes' (Tsioumanis *et al.* 2003: 605). Apparently, the mapping and sequencing of the human genome resulted in the issuing of 148,000 related patents in the 1990s alone (Simms 2004: 211). The shift in the grammatical relation between the concepts 'living organism' and 'invention' thus accounted for the emergence of new concepts like 'biopiracy' (itself a grammatical amalgamation of two complex and history-laden concepts), signifying the illegitimate appropriation of genetic resources (Tsioumanis *et al.* 2003). Hence, the grammatical change in question prompts new highly political questions, for example in the sphere of *justice*, like: Who is the legitimate owner of, say, traditional food crops or of plants that had been cultivated since old age by indigenous peoples? How can 'ownership' be legitimately defined with regard to species? Am I the owner of my genes? If not, can anybody else be? Many more questions like these could be formulated; and all of them are the *result* of a change in political grammar and they open up new fields of contestation, new ambiguities and new possibilities of making 'sense' of our world.

One of the crucial characteristics of changes in political grammar is, I maintain, that a change in one place will very likely trigger changes somewhere else, and sometimes at unexpected places. The change in the relation of 'living organism' and 'invention' will, for example, be *carried over* to many other uses of these concepts in *other contexts*. For example, it is conceivable that the grammar of 'nature' has been imperceptibly changed by the change in the relation of 'living organism' and 'invention'. 'Nature', we might assume, now has closer ties to the concept of 'invention', even if these ties are invisible, elusive. If 'nature' has come a bit closer to 'invention', other concepts might re-organise their own relation to 'nature' as a grammatical response: classes of concepts like 'Creation', 'the

sublime', 'God', 'dignity', 'humility' and so on might be affected in some way; but so might other clusters of concepts like 'progress', 'feasibility', 'science', 'power' on the one hand and 'protection', 'environmentalism', 'ecology', etc. on the other. All these concepts have to re-arrange some fibres in the thread that connects them with 'nature', just as 'nature' has re-arranged some fibres in the threads that connects it with 'living organism' and 'invention'. Some of these changes will be minimal, subliminal and unconceivable at first; but they might exert their full might in an unexpected place at an unexpected point in time. This, I believe, is how political grammar has to be conceived: as a constant weaving and re-arranging of connections and relations, a constant creation and re-configuration of spheres of influence, of fields of meaning and of the nodes that 'fix' meaning temporarily.¹⁷

Another passage from Wittgenstein's *Brown Book* sheds light on the *normalising* function of grammar that is involved here (cf. Cavell 1999: 111 ff):

... B has been taught a use of the words "lighter" and "darker". ... Now he is given the order to put down a series of objects, arranging them in the order of their darkness. He does this by laying out a row of books, writing down a series of names of animals, and by writing down the five vowels in the order u, o, a, e, i. We ask him why he put down that latter series, and he says, "Well, o is lighter than u, and e lighter than o". – We shall be astonished at his attitude, and at the same time admit that there is something in what he says. Perhaps we shall say: "But look, surely e isn't lighter than o in the way this book is lighter than that". – But he may shrug his shoulders and say, "I don't know, but e is lighter than o, isn't it?"

We may be inclined to treat this case as some kind of abnormality, and to say, "B must have a different sense, with the help of which he arranges both colored objects and vowels"

(Wittgenstein 1958: 138-39)

¹⁷ At this point, of course, the 'family resemblance' with or grammatical relation of the concept of political grammar to post-Marxist, deconstructionist and Lacanian theories of discourse and their '*points de capiton*', their 'master-signifiers', 'floating signifiers' and 'chains of equivalence' becomes obvious. Their relation to the theory of political transformation I am developing here will be discussed in some detail in Chapter 5.

Imagine if we asked someone ‘What is the aim of equality?’ and he or she answered: ‘That everybody should possess exactly the same amount of property and money’, or ‘That everybody would be exactly the same’. How far would these two answers feel ‘not right’ in, say, a liberal democracy? And how far would we have to admit ‘that there is something in what he [or she] says’? Where would we locate the margin, the boundary that was crossed in these answers, respectively? And what do these boundaries consist of? Why would an answer like, ‘That everybody is treated equally before the law and that everybody should have roughly the same chances of living a fulfilled life’ feel more appropriate or intelligible in a liberal democracy? Can we give reasons for that? Could we give enough reasons and enough good reasons? Analogously to the case Wittgenstein discusses, we could, for example argue, ‘but look, surely not everyone *wants* to be exactly the same, so this cannot be the aim of equality’ and she might shrug her shoulders and say ‘I don’t know, but if everybody is exactly the same equality is perfected, isn’t it?’ In the end we would perhaps be inclined to conclude that she has ‘a different sense of equality’.

There are countless ways to play this game. Why, for example, would most people smile benevolently if somebody answered the question ‘What is the aim of justice?’ by saying ‘That all living beings have the same rights’? Can we precisely spell out the reasons why this ‘sense’ of justice is somewhat inappropriate? To be sure, we could give many reasons, but could not the other side give reasons, too?¹⁸ We could, for example, argue that justice cannot include all living beings because we need to eat some of them and that is surely unjust, isn’t it? But could not the other side answer, ‘Sure, so we have to re-include ourselves into the food-chain again so that universal justice is established’. Why would that

¹⁸ Giving reasons is just another language game within a society’s grammar; but ‘at the end of reasons comes *persuasion*’, as Wittgenstein (1972: 81e) points out. Ultimately, it is the ‘agreement on judgements’ (Wittgenstein 1953: §242) that decides whether a proposition is politically ‘possible’, not the reasons that are submitted in its support.

not make sense? And in what way *would* it still make sense? What is the boundary between the intelligible and unintelligible, the possible and the impossible, the appropriate and the inappropriate here? Where is the dividing line between a serious discussion and that benevolent smile that indicates ‘Sure, you are right in *a sense*, but...’?

All these examples and language games *show* rather than explain – in the best Wittgensteinian tradition – what ‘political grammar’ is; they give us a ‘sense’ of it without providing clear definitions. However, at the risk of betraying the Wittgensteinian insight that explanations always deceive us to some degree, I feel the need to venture into the realm of definitions and explanation in order to produce a clearer concept of political grammar on which a theory of transformation can be based.

The definition I suggest is that ‘political grammar’ organises and stratifies the ‘political imaginary’ of a society. By ‘political imaginary’ I mean the sphere or field of political imaginations, concepts, ideas and propositions that inhabit a culture or society at any given time. I will call all these differential entities ‘elements’ of the political imaginary, analogous to a definition introduced by Chantal Mouffe and Ernesto Laclau (2001: 105)¹⁹. Many of these elements are articulated into clusters that form more or less extensive discourses, others are relatively isolated. In principle, a modern political imaginary is inhabited by myriad elements, only some of which get the chance of being publicly debated at any one time. As such, the term ‘political imaginary’ does not designate a *particular* imagination, ideology or system of ideas, but is conceived of as a mere container or ‘repertory’, a category that harbours all expressions of sense that could be

¹⁹ Laclau and Mouffe’s theory of discourse will be discussed at length in Chapter 5.

called ‘political’ at any one time.²⁰ This repertory of political articulations and significations is *stratified* by political grammar into a pattern that leads from ‘unintelligible’ via ‘intelligible’ to, ultimately, ‘possible’, thereby traversing the crucial zone where significations are ‘intelligible’ yet ‘impossible’. Political grammar thus orders political statements according to their intelligibility and possibility. By ‘possibility’ I mean their capacity to be seriously considered as possibilities within the inner circles of power, hence their potential to become ‘actualised’, ‘realised’ or ‘enacted’.²¹

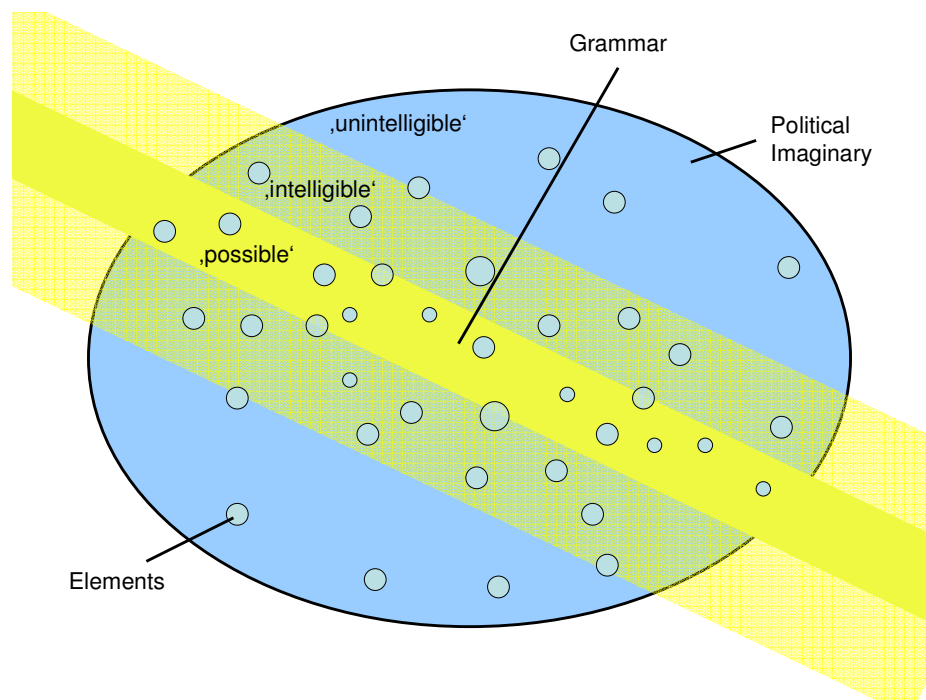


Figure 2.1: Political imaginary and political grammar

²⁰ John Kingdon (1995) has characterised policies ‘as ideas floating around in a policy primeval soup’. However, he ‘notes that their emergence from this soup onto the agenda is far from automatic. Successful ideas must be broadly acceptable, technically feasible, and cost effective to merit serious consideration’ (Wood 2006: 424). In a way, my ambition here is to translate such casual remarks into a theoretically informed language that enables us to better understand the intricate mechanisms that govern the economy between that primeval soup and the political agenda.

²¹ Aletta Norval gives two slightly divergent definitions of ‘political grammar’, when she at one occasion defines it as ‘those horizons delimiting what is possible in any given context’ (Norval 2006: 231), and at another as ‘those horizons delimiting what is intelligible and, hence, what may count as possible reasons in any given context’ (2007: 105). I dissolve this ambiguity by introducing a logical hierarchy between the notions of possibility and intelligibility: All that is (politically) possible must be intelligible but not all that is intelligible must be possible. Hence, grammar *stratifies* the political imaginary into a core zone of possible elements, a wider zone of intelligible-but-impossible ones and a residual zone of unintelligible elements. From the perspective of the analyst of societal change, the intermediate zone of intelligible-but-impossible elements is the most interesting one for obvious reasons.

Figure 2.1 is a highly schematised visualisation of the interplay of the political imaginary and political grammar. The dark-blue sphere is the political imaginary, containing all sorts of political articulations, ideas, concepts, demands etc. (depicted as light-blue bubbles). The bright yellow beam traversing the whole field of the political imaginary is political grammar. Political grammar organises the political imaginary in that it ‘sets the bounds of sense’ (Norval 2006: 231). The political grammar of any given society at any given time determines what is ‘inside’ these bounds of sense and what is ‘outside’, as well as what is at the margins. ‘Sense’, here, is of course not an exact parameter, but, as we have seen in the discussion of grammar, a blurry category.

Imagine a discussion about ‘climate politics’ in a given contemporary liberal democracy and consider the following statements (elements):

1. ‘We should encourage the development and widespread use of energy-efficient technology in an effort to both combat climate change and generate new growth for the economy’.
2. ‘We should phase out combustion engines by law as soon as technological alternatives are available on a broad and competitive basis’.
3. ‘We should ban the use of all fuel-driven cars now’.
4. ‘We should make a revolution to end capitalism and establish a new society based on an ecologically sustainable economy’.
5. ‘We should sacrifice as many goats as possible to the God of the Weather and beg for his mercy.’

Clearly, all five statements would be treated in a different way by the grammar of a given contemporary liberal democracy. Let us briefly consider them case by case:

The first statement quite comfortably fits within the ‘bounds of sense’ established by liberal-democratic grammar and is a sentence versions of which abound in official political statements in liberal democracies around the globe. This statement qualifies as both ‘possible’ and ‘intelligible’ without any restrictions. The case of the second statement is already much more complicated. Here, parts of the statement would be readily accommodated by the political grammar of most liberal democracies (especially the second part of the sentence that functions as a qualification for the first part). However, some aspects of the sentence would not automatically be considered a ‘possible’ demand, but would constitute a limiting case: to phase out a technology by law conflicts with some powerful grammatical traits of liberal democracies; yet, the demand itself is thoroughly ‘intelligible’. The combustion engine has been at the centre of the climate discourse for many years and most people would have no problem to understand the sense of the proposal; that this could be done over a stretch of time by legal means is also a familiar enough thought. However, getting rid of such an important technology by political decision and hence by legal coercion would create considerable uneasiness in large parts of the population: something would feel ‘odd’ here.

The third statement is particularly interesting because here, complete intelligibility and outright impossibility coincide. Everyone in such a debate would clearly see the *point* in the proposal. However, this statement would precisely constitute a case in which a very common reply would be ‘You are right in a sense, *but...*’ (maybe accompanied with the benevolent smile encountered above). The interesting question is precisely what kind of

‘sense’ that is, in which the understanding consists, and what kind of ‘but’ it is that designates the impossibility of the statement. There is little question that the proposal is to be considered ‘rational’ in terms of the overarching quest to combat the menace of climate change. At the same time, however, it conflicts with another form of ‘rationality’, one that has to do with the maintenance of deeply rooted practices, with economic interests, with identity, with emotions and the ‘sensations’ involved in driving (*cf.* Panagia 2009), etc. Political grammar is quite clear here: you can always talk about banning the car, but you cannot expect it to be taken seriously as an option.

Statement four is, according to liberal-democratic grammar, clearly impossible and constitutes also a limiting case in terms of intelligibility. The demand articulated here will be fairly intelligible only to a limited amount of people in a given liberal-democratic society. The discourses on ‘revolution’, ‘capitalism’ and ‘an ecologically sustainable society’ are all quite specialised and far away from everyday discourse. Given the distance of the statement from what liberal-democratic grammar would deem ‘possible’, only a limited range of people would engage in a serious discourse about it.

The last statement, finally, would neither qualify as possible nor as intelligible in a given contemporary liberal-democratic society: although the sentence itself has a meaning everyone can understand, that meaning cannot be attached to the world we live in. A statement like that brought forward in a serious discussion about climate change would be perceived as either sarcasm or madness.

The point of this brief discussion is to show that although a wide range of statements can be made about any given subject in a given society, not all of them would be intelligible

according to the political grammar of that society and even fewer would qualify as serious political statements. What we commonly call ‘politics’ is a game organised around strict bounds not only of ‘sense’ but also of ‘possibility’; only people with a lot of experience in that game will be able to successfully take part in it by articulating speech-acts (and by engaging in practices) that are either wholly internal to the bounds of sense (mostly the part of government representatives) or ones that try to stretch and expand those bounds in a controlled way (mostly the part of opposition politics).

Challenging the status quo in politics thus requires a ‘nose’ (as Wittgenstein would say²²) for these bounds of sense that enables the politician to articulate claims at their margins. Having a ‘nose’ for political grammar is arguably the most important qualification of a successful politician. Indeed, as Michael Saward (2006) has convincingly suggested, the practice of political representation is less a matter of representing the pre-given interests of a constituency than one of making claims about a constituency’s putative collective will. The makers of such representative claims ‘cannot simply conjure claims out of the air (or if they do they are highly unlikely to succeed). Representative claims that are compelling, or which resonate among relevant audiences, will be made from “ready mades”, existing terms and understandings which the would-be audience will recognize [...]. The style, timing and content of a representative claim must tap into familiar contextual frameworks. Claims must repeat the familiar as well as (indeed, in order to) create something new; must iterate features of political culture to cross a threshold of potential acceptability’ (Saward 2006: 303). In order to be successful, in other words, representatives must know their way around the political imaginary and have a clear understanding of the political grammar

²² ‘Ask yourself: How does a man learn to get a “nose” for something? And how can this nose be used?’ (Wittgenstein 1953: 228).

which orders it. This is precisely what Wittgenstein means by ‘having a nose’ for something.

Before broaching the subject of how political grammar can be changed, let me first dwell a moment on a set of very important distinctions that will further clarify the meaning of ‘political grammar’ and the ‘social imaginary’ within my conceptual framework. It is important for me to emphasise that these concepts do not constitute competing or alternative notions to the established concepts of discourse and hegemony, but will help to form a coherent and comprehensive framework of political and social analysis in unison with the latter. Let me start with a very helpful clarification by Judith Butler: ‘Wittgenstein is often understood as the turn away from a logical analysis of language to that of the grammar of use. Similarly, the notion of a grammar is not fully coincident with the notion of discourse developed by Foucault and elaborated in Laclau and Mouffe's *Hegemony and Socialist Strategy*’ (Butler 2000: 170). How can the relation between grammar, discourse and hegemony²³ be conceived, then? The notion of discourse, for Laclau and Mouffe, is closely related to Wittgenstein’s notion of the ‘language game’ (Laclau and Mouffe 2001: 108; Laclau 2005: 106). Grammar, however, determines what kinds of language games can be sensibly played in a society at any given point in time. The rules of formation of any discourse belong to the realm of grammar; or, to use a Heideggerian distinction here, ‘discourse’ belongs to the *ontic* realm of being entities, whereas ‘grammar’ belongs to the *ontological* realm in which the possibilities and structures of being are established (*cf.* Heidegger 2001 [1927]). Hence, while the formation of discourses is delimited and structured by the political grammar in a given society, grammar itself, as we shall see shortly, is not immune to the dislocating effects of discourse and is subject to constant

²³ Chapter 5 will be dedicated in large parts to the discussion of Laclau and Mouffe’s theory of hegemony. I will therefore limit my discussion of the concept here to the necessary minimum.

change as a result. Hegemony, then, is a powerful discourse which manages to articulate several discursive elements into a strong and stable discursive formation that inscribes itself into political grammar and thus gains the power to determine the ‘bounds of sense’ and of the possibility of future discourses. Hence, a hegemonic formation dominates the entire field of ‘discursivity’ and is thus a discourse by which all other discourses are implicitly assessed and judged (*cf.* Laclau 2001).

In contradistinction to Laclau and Mouffe, however, I maintain that modern societies are rarely dominated by just one hegemonic discourse but are usually simultaneously influenced by a variety of different hegemonic formations. This, of course, means that I do not grant the concept of hegemony the analytical centrality it has in Laclau and Mouffe.²⁴ In fact, I believe that political grammar as the ultimate fabric of rules of discourse formation has to be conceived as resulting from the simultaneous effects of multifarious and often incommensurable discourses that are active in a given society. This also explains why this fabric of grammar is never fully coherent and free of contradictions. Grammar is a ‘spontaneous order’ that does not follow a pre-established rationality but contains the substratum of all the forces that shaped and moulded a society in its existing form. Let me flesh this out with a few examples: the contemporary political grammar of my home country Austria is surely influenced by the hegemonic discourse of neo-liberalism, as is the grammar of most liberal democracies nowadays. However, this can hardly be taken to represent the entire content of Austria’s political grammar. Another important discourse deeply inscribed in my country’s political grammar, for example, is that of Catholicism, which still has a tight grip on large parts of Austrian politics and society. But the story does not end here, either. The legacy of Austria’s involvement in the Third Reich, and all the

²⁴ See Chapter 5.

discursive complications attached to it, constitute a third important discourse. But also the legacy of the Habsburg Empire is still important to understand the ‘bounds of sense’ in Austrian politics. The alpine topography of the country and its geo-political seclusion in the eastern-most corner of Western Europe during the Cold War, again, nourished folkloristic and insular discourses of national identity that are still important in understanding certain aspects of right-wing populism in Austria today. The Austro-Marxism of the Inter-War period, in turn, had a marked influence on the development of Austrian social democracy and, by implication, on the rather unique model of neo-corporatism that evolved in Austria after World War II. Various other layers of ‘hegemonic’ discourses could be added to this list, all of which, if considered as a multiplicity of simultaneously active substructures of meaning, make up what could be called Austria’s political grammar. The same analysis could be carried out for each and every country or region in the world²⁵, and never would the mere enumeration of hegemonic or influential discourses suffice to proffer a comprehensive and accurate description of any political grammar. The *ontic* substance of grammar is ultimately too complex to be spelled out, too fluid to be captured by analytical methods. To ‘understand’ a certain society or country in its discursive substance, one can ultimately only try to get a ‘nose’ for its political grammar. Elusive as it might be, political grammar for me is the most basic analytical category to understand the possibilities of and limits to societal change in a society. By setting the bounds of sense it also determines which discourses have a chance of becoming ‘hegemonic’, after all. Changes in political grammar therefore

²⁵ The political grammar of Britain, for example, can be said to be marked by the simultaneity of incommensurable discourses that are deeply ingrained in its history: on the one hand, its role as the cradle of modern Capitalism and ‘possessive individualism’ (Macpherson 1962), and on the other, a strong collectivist trait that is responsible for the establishment of communitarian institutions such as the National Health Service (NHS). This ambiguity might be conspicuous only to foreigners who have difficulties in getting a ‘nose’ for the British political grammar and who rarely stop being amazed and startled by its complexity and ‘inconsistency’.

constitute changes in the realm of discursive possibilities and, by implication, in the realm of political action.

2.2.3. How is grammar changed? The logic of transformation

The first problem in exploring the logic of transformation is that it has to overcome a paradox. This paradox is at the core of the notion of ‘grammatical change’ itself. If grammar delimits what ‘makes sense’ in any given moment in time and thus accounts for the ‘continuity’ of sense, it cannot account for its own change. Put differently, a change in grammar cannot itself be part of grammar, since it would have to allow for a new type of ‘sense’ to be accommodated that does not (yet) make sense. Hence, the logic of transformation has to be dealing with some sort of ‘rupture’ that is inflicted on grammar from ‘outside’. But what is the ‘outside’ of grammar if not the ‘impossible’? And how can the ‘impossible’ make itself ‘possible’ without having to pass the test of grammar? If we do not want to invite the idea of a completely autonomous or haphazard mutation of grammar (which would detach grammar from practice and accord it a transcendental status) we will have to find the answer to the paradox as much inside grammar as outside it. In other words: there must be an internal trigger that opens the door to the external event of rupture.

If we have another look at figure 2.1, we see that the elements can be organised in three groups according to their possibility: (1) impossible elements (both intelligible and unintelligible ones); (2) possible elements (which are all, of course, intelligible, too); and (3) semi-possible elements (which are situated at the margin: half intelligible but impossible, half possible). These semi-possible elements, I argue, are the ones we need to focus on. They *irritate* grammar, so to speak, being half accommodated and half rejected

by it, and incapacitate grammar's primary function – to enable or disable them. Hence, we have to assume that these elements mark the loci where grammar is prone to change in an effort to either fully accommodate or reject the semi-possible elements. However, the elements on their own are logically not in the position to wield any power over grammar as they are themselves subjected to grammar's rule. A sentence cannot change the rules of its constitution. The paradox is therefore still in place.

Hence, the conclusion must be that it is not the semi-possible elements themselves that inflict a rupture to grammar, but that there must be something of the form of an 'event' or a 'singularity' – some kind of unaccounted effect of discursive practice – that compacts at the locus of the semi-possible element and discharges into a rupture. The relation of the semi-possible element to the singularity is that of a conductive material to a flash of lightning. The grammatical 'energies' that are blocked at the locus of the semi-possible element attract the singularity as a catalyst and 'invite' the rupture, so to speak. The rupture then functions as a 'tipping event' (*cf.* Wood 2006) in tipping the balance towards enabling the hitherto blocked part of the element. However, this is not a relation of necessity but of potentiality: not all semi-possible elements will be the locus of ruptures (because there is, theoretically, an infinite number of them), but all ruptures will occur at the locus of semi-possible elements.

The rupture itself, then, is best conceived as a mutation of grammar. Since grammar 'sets the bounds of sense', the new bounds deactivate the old ones. According to the new bounds of sense, the *past* is that which needs explanation, since the formerly half-excluded element is now fully 'normalised'. Hence the rupture does not suspend sense but deactivates the old way of 'seeing it'. Sense is always warranted; the rupture becomes a

‘retrospective’ phenomenon in that we question the now disabled thread of grammar as obscure. But the newly enabled thread of grammar opens up new possibilities, too: suddenly, some elements that hitherto were merely intelligible but impossible now become semi-possible: The change in grammar closes some doors and opens others, and there is always a grammatical relation between the doors involved. Some of the new semi-possible elements will start irritating grammar, will become focal points of political antagonism and start attracting a rupture. Others may remain hypothetical options and never develop into loci for grammatical rupture.

The very *logic* of political transformation can therefore be defined, I suggest, by the paradoxical formula ‘*rupture-in-continuity*’. The continuity of sense is warranted by a grammar that is subject to frequent minor mutations at its margins. These mutations are effects of social and discursive practices and subject to certain circumstances external to grammar itself. The mutations have the potential to alter the overall trajectory of grammar; however, how far that potential is realised will depend on the ways in which discursive practices are institutionalised as forms of political agency in a society (this will be our subject in Chapters 3 and 6, respectively).

My conception of the ‘logic of transformation’ as presented here can be substantiated by a range of observations Wittgenstein made in the realm of perception and what he called ‘aspect-seeing’. As always, though, it is impossible to derive any direct theoretical claims from the later Wittgenstein’s work, since he himself ‘very deliberately refuses to state philosophical theses’, as Hilary Putnam (1995: 27) puts it. However, there seem to be close connections between his observations on ‘aspect-seeing’ and the possibility of grammatical change, even though it might be difficult to argue for any strictly *causal* relation here.

These striking connections, in any case, have been noticed by Aletta Norval (2006; 2007) and Stephen Mulhall (1990; 2001), respectively, who both use them to argue for the possibility of grammatical changes and on whose scholarship I build my argument here in parts.

In the *Philosophical Investigations*, Wittgenstein describes a series of phenomena in the realm of perception which he calls ‘aspect-dawning’ and ‘aspect-change’, respectively, and which are both part of the phenomenon of ‘continuous aspect-seeing’. Probably the most famous example he gives is that of the ‘duck-rabbit’ – a drawing of the head of a duck which can interchangeably be perceived as the head of a rabbit. ‘The picture might have been shewn me, and I never have seen anything but a rabbit in it’, Wittgenstein (1953: 194) writes. All of a sudden, however, the rabbit-aspect might disappear and the picture would now appear to show a duck. What interests Wittgenstein at the core is what accounts for this change of aspect and what goes on inside us at all when we see ‘aspects’.

According to Avner Baz (2000: 100), seeing aspects has to do with the fact that ‘human beings are endlessly required to make sense not only in what they say, but also in what they pay attention to’. Aspects are the patterns of meaning that are ready-to-hand to us and without which we had to infinitely analyse every perception in order to establish the way we can work with it. Sometimes, however, a new aspect appears in a perception and replaces the previous one. ‘I meet someone whom I have not seen for years; I see him clearly, but fail to know him. Suddenly I know him, I see the old face in the altered one. I believe that I should do a different portrait of him now if I could paint’ (Wittgenstein 1953: 197). What does *not* happen here is that the perceiver analyses the face he sees in all its details, matches it with a catalogue of all faces he knows, determines similarities and

dissimilarities and comes to the conclusion (by adding wrinkles and changing shapes and colours in his mind) that this face could actually be his old acquaintance. Instead, an *aspect* of his acquaintance's old face (the glance of his eyes, his way to smile, his nose or so) *dawns* in the altered face: all of a sudden it takes over the whole perception and attaches the new meaning 'old acquaintance' to it. From that point on, it will be virtually impossible for the perceiver to return to the previous aspect ('stranger') when he sees the face again: the new aspect will have taken firm control of it.

Wittgenstein puts much stress on the assertion that the dawning and change of an aspect are instantaneous events – they take the form of *ruptures*. Crucially, we cannot capture the moment of rupture – we cannot pin it down and keep it open as the moment when new meaning emerges. As soon as it appears, it has already restructured our ways of seeing and making sense: 'Careful attention is no use to me. All it could discover would be what is *now* going on in *me*' (1953: 219). From the moment of rupture onwards, the new meaning is at work in you, and this includes also the attempt of 'looking back'. In that sense, as Wittgenstein says, 'your memory constantly deceives you' (1953: 207). The past is always a product of the present.

Hence, I argue that Wittgenstein's reflections on 'aspect-change' provide strong conceptual support for the account of grammatical change the logic of which I have called 'rupture-in-continuity'. This logic enables us to account for a form of change that would otherwise remain largely incomprehensible, as Aletta Norval seems to agree: 'New sense has to be made of something: it has to be new, yet still has to be intelligible. If we lack the new, we are forever trapped in tradition; if tradition is entirely absent, the new will be unintelligible. This points to the need for an account of change that avoids these two

extremes' (2006: 243). Wittgenstein's notion of aspect-change accomplishes quite that in that it introduces the idea that grammar occasionally loosens its grip on meaning and allows for a mutation to take place, for the incorporation of a pattern that would otherwise be impossible to make sense of. The mutation is *retrospectively intelligible* in that it is embedded in the surrounding grammar. '[T]he break introduced is one that is not so radical as to no longer make sense to the subject' (Norval 2006: 238). Hence, what is established is the logic of a rupture-in-continuity, a form of change that incorporates the new into established ways of making sense, which, in turn, slowly changes our overall bounds of sense. This logic, I maintain, is in the position to account for the profound kind of change societies are subject to on a daily basis, a form of change that accumulates over the years and becomes comprehensible only with hindsight – a form of change, I have argued, that is best described as 'transformation'.²⁶

2.3. Transformation and the problem of agency

Now that I have established the logic of transformation as that of 'rupture-in-continuity' we need to relate that logic to the realm of politics, and, more precisely, to that of political agency. We need to show, in other words, how semi-possible elements become possible, how a mutation of grammar occurs on the phenomenal level and what the conditions of possibility are of the event of a rupture in political grammar. We have to translate the abstract model into practice.

²⁶ Another, related way of theorising the possibility of transformation is Derrida's concept of 'iterability' (e.g. Derrida 1988). As Henry Staten explains in his book *Wittgenstein and Derrida*, for Derrida 'the intersubjectivity of language – its capacity to function as a vehicle for the repetition of the same by different subjects – is, ironically, at the same time its capacity to be torn away by reader or hearer from what it meant to its issuer, so that it continues to mean something, but not identically what it meant to its writer or utterer. Derrida calls this kind of repetition-with-a-difference "iteration" [...]' (Staten 1985: 112). He further explains that the 'iterability of a code ruptures its authority because it makes it essentially permeable to the deformations of context and yet makes it independent of the power of any given context to determine its meaning once and for all, because the sign carries an irreducible structure that will not let itself be absorbed into a present intention that would fix it in relation to an intentionally totalizable present context' (ibid.: 123). Staten strongly emphasises that both Derrida and Wittgenstein were working on deeply related projects.

As I have demonstrated above, it is impossible for a semi-possible element to *enable itself* simply by virtue of its undecided status between possibility and impossibility. Similarly, it is impossible for *grammar* to enable or disable the element without some external ‘trigger’, since grammar is not an actor but that which guides and orders agency: it cannot ‘act’ on its own behalf. Hence, something has to ‘happen’ for grammar to incorporate the impossible part of the semi-possible element and thus for it to mutate. We are therefore asking: what makes grammar temporarily and occasionally loosen its grip on an element; what is that external phenomenon that calls for the singularity of a rupture; what, that is, makes an aspect ‘force itself on us’ (Baz 2000: 109); what, finally, makes a semi-possible element claim its place inside grammar?

Semi-possible elements, I will argue in this section, need *chances* to make their point, so to speak. Whether or not such chances occur, and the way and frequency in which they occur, depends on the way agency and discourse are institutionally channelled in a given society. Every political order, I maintain, has its own ways of controlling political grammar: while, crucially, grammar cannot be changed at will, what can be controlled are the points of access to grammar. These points of access are, as we have seen, the semi-possible elements. Here, many different forms of regimes are, in theory, conceivable: there could be political orders that deliberately open up access to political grammar by institutionalising agency and discourse in such a way that semi-possible elements become exposed to public scrutiny, discourse and decision-making. Most political systems, however, do not grant such easy access to the semi-possible elements of their political imaginary, for fear of too radical change and resulting instability. Liberal democracy, as Chapter 1 has revealed and as Chapter 3 will analyse in more detail, is based on a particular form of legitimacy that I

have called ‘epistemic legitimacy’ which forces the state to minimise the scope of its actions. In effect, this means that what is ‘possible’ and what is merely ‘intelligible’ in a liberal democracy must not be left to public debate and decision-making, as this would destabilise the political order. The political grammar of a liberal democracy is therefore more autonomous than one would expect from a regime that defines itself as a democracy.

Analysing the various ways in which forms of agency and discourse are organised in political systems with regard to their access to and impact on semi-possible elements of the political imaginary would be an illuminating and important task for democratic theory, since such an analysis could provide democratic theorists with a new measure of the democratic qualities of a regime. Here, the democratic access to political grammar and therefore to transformative societal change would provide the measure for the democratic quality of a regime. The third Chapter of this thesis will therefore constitute my attempt of achieving such an analysis for the historical formation that goes under the name of ‘liberal democracy’. Before I can engage in such an endeavour, however, I have to establish the general notion of the relation between agency and grammatical change. I will do this by describing two – quite arbitrarily chosen – examples of grammatical mutations from recent history. Both examples include semi-possible elements of the political imaginary that become the focal point of a grammatical rupture leading to their incorporation and hence to the mutation of grammar. Hence both examples, I will argue, are suitable to corroborate the theoretical assumptions made in this Chapter.

2.3.1. Example 1: Tobacco’s tipping point

The first example I want to examine is that of the ‘tipping’ of the discourse on smoking in the United States and in Western Europe over the past decade or so. As the semi-possible

element whose incorporation into political grammar needs to be explained we can identify the introduction of extensive smoking-bans on most publicly accessible premises, including bars and restaurants, in many West-European countries and the United States in recent years. These smoking-bans arguably constituted ruptures in the respective political grammars: not very long ago, such measures would have been unthinkable. However, they soon disappeared as ruptures and formed part of social normality: soon, not to smoke in a café was regarded the normal (and right) thing to do and the idea of smoking there was regarded as irresponsible and antisocial (let alone illegal).²⁷ These radical measures persistently changed the grammar of smoking in those countries: smoking in itself became a somewhat antisocial and intolerable activity that needs to be confined to private spaces. What needs to be explained, then, is what allowed this rupture to take place.

In his study on ‘Tobacco’s Tipping Point’ in the United States, Robert Wood (2006) introduces the concept of ‘tipping events’ and argues that the so called ‘Master Settlement Agreement’ (MSA) of 1998 between the majority of federal states and the tobacco industry constituted such an event for the discourse on (and regulation of) smoking in North America.

A ‘tipping event’, for Wood, is an event that induces a discourse or political ‘subsystem’ to ‘tip’ into a certain direction that was hitherto blocked. The tipping point induced by the event ‘signals the moment when a system shifts from negative to positive feedback’ (Wood

²⁷ This point can be illustrated by an anecdote from personal experience: in November 2007, just three months after the implementation of the smoking ban in the United Kingdom, I was travelling on a plane from Vienna to Manchester, when the woman next to me told me that she enjoyed her visit to Vienna very much, apart from the fact that all the cafés and pubs were so smoky. I was somewhat puzzled by this remark, given that only a few months ago all the cafés and pubs in her own country would have been similarly smoky. Then it struck me that I was the witness of an ‘aspect-change’, of a rupture in someone’s personal sense of normality: for this Englishwoman, smoking in public indoor spaces now is grammatically ‘impossible’, while the new and legitimate normality is not to smoke there.

2006: 428). Tipping events thus constitute somewhat unforeseeable and ostensibly minor historical occurrences which have the power to unblock a conflict or discourse that has hitherto been building up without being able to be resolved in one way or the other. The Master Settlement Agreement, according to Wood, achieved just that within the discourse of smoking.

Under the terms of the agreement ‘the industry agreed to pay out approximately \$206 billion over 25 years, in exchange for protection against future actions by the states’ (Wood 2006: 431). Crucially, the agreement was not reached under the impression of new scientific evidence for the adverse health effects of smoking, although such evidence was abundant by the late 1990s. As Wood points out, ‘[s]cientific evidence [...] of the dangers of smoking was clear as early as 1964 and had reached the point of scientific consensus by 1980. Yet the policy environment continued to favor a policy image associated with individual choice and consequences until well into the 1990s’ (*ibid.*: 425). What made the MSA possible instead was the idea of two resourceful lawyers to convince as many states as possible to simultaneously file lawsuits against the tobacco industry on the legal argument that ‘tobacco companies had been “unjustly enriched” because they had not borne the costs of the by-products of their enterprise’ (*ibid.*: 428). Thus, the ‘motivation to seek a settlement arose primarily to restore some level of predictability to the industry and stabilize stock prices’ since the ‘threat of so many similar suits at once, and the potential for many more in years to come [...] threatened to bankrupt the industry’ (*ibid.*: 430).

As Wood shows in his study, the discourse on the detrimental health effects of smoking has been building up since the 1960s and considerably gathered pace from the late 1970s onward, fuelled by the increasing scientific evidence of the dangers of tobacco

consumption. One might assume that a proposition to ban smoking from publicly accessible indoor spaces would have crossed the threshold from being ‘intelligible but impossible’ to being ‘semi-possible’ somewhere during the late 1980s. However, despite the compelling scientific evidence on the dangers of smoking, a “‘strong cultural foundation for an ethic of individual responsibility’ prevailed among the electorate’ until deep into the 1990s (*ibid.*: 427, citing Ladd: 1998). In other words, the semi-possibility of the proposition to ban smoking from the public consisted in its two countervailing aspects: its grammatically ‘possible’ aspect was deeply rooted within the profound discourse on health and fitness that has taken control over large parts of western societies by the 1980s and that presented the fact that smoking was still widely allowed in public as an absurdity. This aspect, however, was persistently counter-balanced by the equally strong sentiment for individual responsibility and choice that made the notion of a state-driven correction of society by banning a particular form of behaviour or cultural practice from public spaces a disconcerting prospect. Hence, the notion of an extensive regulation of smoking behaviour remained in the state of semi-possibility – until the Master Settlement Agreement tipped the balance.

The MSA indeed effectuated something like an ‘aspect-change’ in the wider public: it was seen as tobacco industry’s implicit confession that they would not be able to withstand the scientific evidence against smoking in court any longer. The picture now dawning to the public was that industry implicitly conceded that they were selling toxic drugs to millions of addicted victims. Under these circumstances, it would no longer make much sense (grammatically speaking) to regard the whole issue as being a matter of individual responsibility and choice. Instead, what suddenly seemed totally ‘natural’ was the notion that those addicted victims need to be protected by state action and that the non-smoking

majority needs to be protected from second-hand smoke. The grammatical deadlock was broken and a thorough regulation of smoking in the public was now possible, not only in the United States, but in all societies with a comparable political grammar. The mutation of grammar effectuated by this rupture arguably reconfigured the whole discursive field of smoking with respect to political grammar: when a smoking-ban in public spaces is now outright 'possible', a total prohibition of smoking seems to shift from being 'intelligible but impossible' to being 'semi-possible'.

Crucially, as I have argued above, a grammatical change like that normally does not confine itself to the very element that effectuated it but shifts the bounds of sense in many other discursive fields as well. The mere fact that the socio-cultural inclination towards individual choice and responsibility was defeated or at least bracketed in a major political battle cannot go unnoticed in other fields and makes the idea of state driven 'corrections' of social behaviour at least more plausible or semi-possible where they might have hitherto been 'intelligible but impossible'. The position of several elements in their relation to grammar will undergo shifts, some imperceptible and small, others obvious and large. Wood, too, stresses the possibility that the MSA produced 'spillover effects in other policy domains' and refers to cases where the same legal argumentation is now being used in other policy fields. 'In the decade since the tobacco suits began, the very sticky idea that manufacturers can be held liable for the "by-products of their enterprise" has produced lawsuits aimed at holding the fast-food industry liable for costs associated with obesity [...] and gun manufacturers liable for costs associated with gun violence' (*ibid.*: 433).

2.3.2. Example 2: Nuclear power in Austria

The second example of a change in political grammar I want to discuss here shows that the ‘events’ that make a semi-possible element create a rupture in grammar can be of very different kinds and provide ample space for contingency. In the case of the Austrian discourse on nuclear energy one might say that a careless move of the Austrian chancellor has changed the political grammar on this issue once and for all.

In the early 1970s the Austrian government commissioned the construction of the first nuclear power station near the town of Zwentendorf. In the following years, however, scepticism towards nuclear energy had gained ground in the electorate (Müller 1998: 27). In 1978, finally, when the power station was ready to go online, the ruling socialists hesitated to take full responsibility for the historical step of carrying Austria over into the ‘atomic age’ and decided to call the Austrians to the polls over the issue in the country’s first ever referendum (*cf.* Pelinka 1983: 255-6).

The government was initially more than confident to win the referendum since not only did the ruling socialist party (SPÖ) itself steer a strictly pro-nuclear course but also the neo-corporatist sub-system of trade-unions and employers’ associations was generally in favour of ‘going nuclear’. In addition, the oppositional conservatives (ÖVP) were torn on the issue: significant parts of the party’s rank and file, in particular its industrial wing, tended to openly support nuclear power despite their party-leader’s stance against it. However, as the referendum approached, the pro-nuclear majority in the electorate was considerably reduced. ‘In order to stop or revise this trend’, Müller points out, ‘chancellor Bruno Kreisky indicated that he might resign if the referendum rejected nuclear energy. Unintentionally this provided an incentive for those ÖVP voters who were positive about

nuclear energy to vote against its use on party political grounds' (Müller 1998: 27). Ultimately, the referendum rejected nuclear power with a narrow vote of 50.47% against 49.53%. Immediately after the plebiscite, the Austrian parliament passed a bill of constitutional law (meaning that the bill can only be lifted by a two-third majority in a parliamentary vote) to prohibit the starting of any nuclear power plant in Austria.

This somewhat haphazard result nevertheless started to inscribe itself deeply into the political grammar of the country. Although not only the government but 'more generally the political establishment were disappointed with the substantive outcome of the referendum' (Müller 1998: 27), the electorate did not seem to regret the decision. In a survey carried out only a year after the referendum, only 42% were in favour of a new referendum on nuclear energy and just 41% would have liked to see the power station at Zwentendorf go online (Pelinka 1983: 258). Since then, the anti-nuclear-camp has won a firm hegemony over the discourse – one that was of course fortified by the nuclear disaster of Chernobyl in 1986, which retrospectively affirmed the vote of 1978. By 2008, an overwhelming majority of 80 % of Austrians was opposed to nuclear energy (a figure that was even higher during the 1990s when it reached about 90%) and only 14% strongly supported that form of power generation (European Commission 2008: 6, 7). It has become common-sense in Austria to be 'anti-nuclear' and a party suggesting otherwise would have little chance of being successful in elections.

Let me now translate these events into the theoretical terms I have developed in this Chapter. The idea of banning the generation of nuclear power in Austria altogether by constitutional law is best regarded an 'intelligible but impossible' element until the late 1970s: it might have been a serious proposition in some marginal anti-nuclear circles and

within grassroots-movements, but must have been regarded utopian by all reasonable actors. This changed when, in the summer of 1978, the government itself called for a referendum on the issue: now the idea became ‘semi-possible’. The Austrian chancellor’s failed ‘tactical’ move to link up his personal political fate with the issue in the run-up to the vote ultimately made the vote ‘tip’ towards ‘No’. Crucially, this move did not tip the entire public opinion on nuclear power, but it moved a couple of thousand votes from ‘Yes’ to ‘No’, hence deciding the matter.

The rupture itself was inflicted by the unlikely outcome of the referendum that constituted the tipping event. The authority of the referendum as a democratic instrument seemed to have eradicated the ‘impossible’ aspect of the element and the electorate seemed to have accepted its own decision as the new ‘normality’ – hence, the rupture triggered a mutation of grammar. This aspect-change was completed, of course, by the Chernobyl disaster eight years after the referendum. The change of grammar on this matter was now complete: to be pro-nuclear from there on was to be ignorant or malevolent – it was a stance that was no longer accepted by the grammar of Austrian politics. Instead, it has been a characteristic trait of the ‘official’ Austria ever since to present itself as anti-nuclear, both in international diplomacy and domestically.

The two examples discussed above are intended to demonstrate the diversity of the circumstances and events that ultimately account for an element’s being intelligible, semi-possible or possible. In order for a rupture in grammar to be triggered, an event (or a series of events) needs to induce grammar to deal with a semi-possible element. A rupture of grammar is a singularity in that it breeches the bounds of sense and in that it cannot be accounted for by any form of regularity or rule. Nevertheless, such ruptures are both

frequent and inevitable: without them, complex human societies would not be possible since there would only be one primordially fixed system of meaning which could never be transgressed or transformed.

I argued in this Chapter that meaning in society is generated through social practices that involve language, actions and material objects. The web of meaning thus generated, which includes the rules of its social reproduction, can be conceived, following Wittgenstein, as ‘grammar’. In so far as grammar has political relevance we speak, following Aletta Norval, of a society’s ‘political grammar’. I then presented an analytical model that helps us understand how elements of political grammar change and to what extent ‘local’ grammatical change can have far-reaching effects on the entire grammatical structure of a society.

Accepting this theoretical approach does not mean to commit oneself to a normative judgement about the value of change. Change, within this perspective, is neither good nor bad – it is a fact of social systems that needs to be explained. The purpose of this Chapter was thus to provide us with some analytical tools to better understand some of the mechanisms that effect grammatical change. Within the wider context of this thesis, however, a normative element comes into play: I started my analysis with the observation that certain forms of purposive and far reaching change in liberal democratic systems appear to be structurally inhibited; and I contended that given the multi-faceted predicament of contemporary capitalist democracies in the face of impending environmental and energetic (and consequently social) crises it would be desirable for liberal-democratic regimes to gain more democratic control over the direction and quality of societal change and to increase the reach and intensity of such democratically willed

change. This observation therefore involves the normative judgement that certain mechanisms and modes of change should be awarded more influence in the future while others should be contained. More concretely, the purposive and democratic steering mechanisms of liberal democratic regimes should be improved while ‘blind’ socio-economic autopoiesis should be democratically controlled. Needless to say that democratic steering mechanisms can be used for change in all sorts of directions and that there is no guarantee that democratic will-formation will or can lead to a solution of the impending crises I am presuming. But the rationale of the argument I present here is that without improved democratic control over the direction of societal change we are at the mercy of the autopoietic forces of capitalist evolution and democracy becomes an empty shell. It is therefore important, I argue, to provide effective tools to analyse the functioning of political agency and its relation to grammatical change in liberal democratic regimes. Hence, it is the examination of liberal democracy’s ‘agentic regime’ to which I shall turn now.

Chapter 3: Governing Agency – Decision, Choice, Solution

Chapters 1 and 2 were primarily concerned with the problem of ‘structures’. In Chapter 1 I identified and analysed some structural features of liberal democracy as a historical formation. I argued that the condition of possibility of liberal democracy is its ‘epistemic’ form of legitimacy which requires societal reality to be generated (or constructed) in a way that is perceived to be external to the representative relation of the state and the public. That way, this very fragile relation (‘politics’ proper) is not burdened with the task of having to agree on the very contents of reality but can restrict itself to the administration of ‘independently given’ phenomena. This fundamental structural requirement of liberal democracy doubtlessly delimits the options and the scope of political agency. Chapter 2 was dedicated to the analysis of another type of structure in that I proposed that the matrix of dominant discourses and cultural rules in a society results in a form of ‘political grammar’ which delimits the realms of the ‘possible’ and the ‘impossible’ within a society’s political imaginary. Agency, I argued, is not free to enact the impossible but is guided and bound by a society’s grammar.

We can conclude from the first two Chapters that liberal democracy’s epistemic structure constitutes a central building block of its political grammar in that it sets up an effective divide between possible and impossible demands and forms of political agency. The political imaginary is moulded and shaped by the epistemic requirements of liberal democracy so that many intelligible discourses are ‘impossible’ simply because they would require a purposive political intervention in the contents of societal reality, for example. Just in which ways the forms, scope and range of political agency is delimited by the epistemic architecture of liberal democracy will be the task of this Chapter to reveal.

The purpose of the present Chapter is thus to bring the register of agency into the picture drawn so far. First, I will review some conceptions of agency within political theory and establish a distinction between forms and modes of agency (section 3.1.). Second, I will establish an analytical distinction between three different *modes* of agency and will analyse the ways in which the liberal-democratic regime puts them to action or withholds them (sections 3.2. and 3.3.). Third, I will analyse how the resulting topography of political agency influences the economy between the political imaginary and political grammar (section 3.4.). In a concluding section (3.5.), I will analyse what I will call the resulting ‘agentic deadlock’ in liberal democracy: a way of organising political agency so that the realms of the ‘intelligible’ and the ‘possible’ are effectively disconnected from another, allowing for only minimal interaction and exchange. I will argue that this way of organising political agency has been a structural element of the liberal-democratic formation with the purpose of protecting its epistemic architecture. I will, however, also argue that there is no structural ‘necessity’ involved here and that there might be alternative ways to protect the epistemic architecture. Hence, I will suggest that it might be possible to unblock the agentic deadlock in liberal democracy without jeopardizing its vital epistemic foundation. This task, however, will be left to the final Chapter.

3.1. Conceptions, forms and modes of agency

Agency, as I have pointed out in the Introduction is a highly contested term that ‘provokes fundamental ontological as well as social and normative questions’ (Coole 2005: 124). Not only is the possibility and meaning of agency inherently contested by its logical antagonist, ‘structure’, but the very question of what counts as agency appears to be disputed even amongst those theorists who accord some meaning and relevance to the term.

Within social and political theory debates on agency tend to focus on *conceptions* and *forms* of agency. At the centre of these debates are the concept of the agent and the nature of its actions. Such debates typically revolve around the following questions: what constitutes an agent; which activities and practices count as agency; and where are the limits of agency? What is conspicuously lacking, however, is a debate about another dimension of the problem, one that I will call the ‘*modes* of agency’ here. This dimension accounts for the other side of the problem, so to speak, and asks the question of agency from the point of view of *change*, not of the *agent*. My argument is that an analytical distinction of *modes* of agency – of the different ways in which change can be effectuated – will enable us to see how *forms* of agency are organised and put to work in a given society. In that sense, I argue that if the objective is to understand the limits to purposive change in a given society, an understanding of *modes* of agency takes analytical precedence over the analysis of *forms* of agency. Before I turn to my distinction of *modes*, however, I shall say a few words about *conceptions* and *forms*.

As Fuchs (2001: 26) points out, the ‘conceptual core of most agency theories [...] is the human person’. Most conventional theories also assume that ‘[a]gency requires consciousness, free will, and reflexivity’ and that ‘[a]ction is the realization of a purpose or goal, assisted by empirical knowledge about the world’ (*ibid.*). Whether agency requires some measure of intentionality, however, appears to be less clear even in standard accounts of agency. McAnulla (2002: 271), for example, states that ‘agency refers to individual or group abilities (intentional or otherwise) to affect their environment’, whereas Wallace (1999: 217) holds that ‘[r]ational agency may be thought of as intentional activity that is guided by the agent’s conception of what they have reason to do’. Defined that way it becomes questionable whether ‘unintentional activity’ could still count as agency proper.

Sibeon (1999: 139), in turn, defines agency simply as ‘actor’s capacity to act upon situations’, while he sees it ‘appropriate to define an actor as an entity that, in principle, has the means of formulating and acting upon decisions’ (*ibid.*: 141). Such relatively narrow definitions of both agency and agents are frequently contested by theorists who have a more ‘holistic’ approach to agency, and who want to break with the Cartesian concept of the subject in understanding and explaining social change. Diana Coole, for example, challenges such accounts from a phenomenological perspective. Building on Merleau-Ponty, she suggests that instead of embracing the ‘figure of the ontological individual or transcendental subject’, one should instead begin locating agency in the ‘perceptual, corporeal life-world’ (Coole 2005: 128). The aim of this change in perspective is to suspend any presupposition that agency ‘must be located in discrete, reflective selves’ (*ibid.*). Instead, she breaks down the notion of agency ‘into a series of contingent phenomena’ that are distributed within an ‘agentic spectrum’ (*ibid.*). At one pole of this spectrum she envisages ‘pre-personal, non-cognitive bodily processes; at the other, transpersonal, intersubjective processes that instantiate an interworld. Between them are singularities: phenomena with a relatively individual or collective identity whose provisional forms and activities come closer to modernity’s sense of agency without coinciding with it’ (*ibid.*). Coole’s project is thus to include the visceral, corporeal and somatic in her account of agency. For her, the fact that humans are primarily bodily entities is meaningful as our bodies are both the media and instruments of action (agency), but also constitute a trans-personal interworld (structure) ‘where desires and refusals meld and congeal’ (*ibid.*).

Another challenge to the conventional ‘modern’ understanding of agency comes from so-called Actor Network Theory (ANT), as developed primarily by Bruno Latour and Michel

Callon (*e.g.* Latour 1987, 1993, 1996, 2004; Callon 1986). At the core of ANT lies the methodological demand to treat all entities – human as much as non-human – as actors (Belliger and Krieger 2006: 15). Machines and technological entities in particular become ‘socialised’ and accounted for as ‘actors’ in their own right. The rationale of this move is that human artefacts such as machines, tools and apparatuses all carry within them human and social properties in that they are designed according to human concepts, needs and practices. Thus in creating artefacts humans bestow agency upon the material world outside human bodies (*cf. ibid.*). That leads to what Latour calls a ‘collective’ (Latour 1999) of human and non-human actors, consisting of networks of artefacts, things, humans, signs, norms, organisations and texts, who are embedded in programs of actions where they turn into ‘hybrid actors’. Hence, ANT’s strategy of grappling with the presumed inadequacy of the ‘modern’ conception of agency is to ‘widen the category of “actors” beyond human agents, extending it to include non-human objects too’ (Elder-Vass 2008: 468).

The third challenge to the modernist model of agency I want to touch upon here is that of discourse theory as developed by Ernesto Laclau and Chantal Mouffe. Since I will dedicate a whole Chapter (Chapter 5) to their approach, I will only make a few remarks about it here. Central to their account is that they transcend the agency-structure-problem in that they deny total positivity to both agent and structure. For them neither term ‘exists’ as an ontologically discrete entity but only as a ‘horizon’ in the phenomenological sense. With recourse to Heidegger’s existential analysis of *Dasein* they ‘begin by accepting that social agents always find themselves “thrown into” a system of meaningful practices, an immersion that both shapes their identity and structures their practices’ (Glynos and Howarth 2007: 79). Crucially, however, ‘these structures are ontologically incomplete’

(*ibid.*), they are ‘marked by a fundamental lack’ (*ibid.*: 129), since identities can only be *relational* and never totally exterior to each other or interior to themselves. Structure is therefore always undermined by the non-fixity of its elements, that is, by contingency (*cf.* Laclau and Mouffe 2001: 105ff, 111). ‘Indeed’, as Glynos and Howarth point out, ‘it is in the “space” or “gap” of social structures, as they are rendered visible in moments of crisis and dislocation, that a political subject can emerge through particular “acts of identification”’ (2007: 79). Thus, identity (as a precarious state of overdetermination) is only possible as the decisive act of identification. The subject emerges as the partial fixity of a subject-position that requires identification. This act of identification *generates* the subject, so to speak, as a contingent node in a structure that is characterised by a fundamental lack. Agency, then, is identification and acting upon identification (*cf.* Laclau 1996b: 54 ff).

The poststructuralist view of agency expressed in discourse theory also constitutes a clear break with the *Marxist* conception of agency, whose economism and determinism it intends to overcome. For in classic Marxism, ‘the subjects are social classes, whose unity is constituted around interests determined by their position in the relations of production’ (Laclau and Mouffe 2001: 118). Hence, ‘the worker’s political struggle and economic struggle are unified by the concrete social agent – the working class – which conducts them both’ (*ibid.*). Agency is irremediably *class* agency. This necessitates an implicit split of agency between empirical social agents (workers) and their historically necessary subject positions (class). Workers must become conscious of their class agency and there is always the danger that they do not. Hence the Marxist conception of the vanguard party: ‘the party represents not a concrete agent but its historical interests’ (*ibid.*: 119). Put differently, the party does not represent the *working class* as an *empirical* class of social

agents but the *proletariat* as an *historical* agent – it therefore represents a *position* rather than concrete people. This can lead to the somewhat tautological relation of the represented and the representatives being ‘constituted by the same discourse and on the same plane’ (*ibid.*): the vanguard party agent represents a worker’s objectively conceived historical interest but not him or her as a concrete person, as long as that person does not come to realise their ‘true’ interest.

These examples illustrate the variety of ways in which the notion of agency can be – and has been – conceptualised. In all these cases the guiding question was: who or what is an (or *the*) agent? In other fields of political research this question is often supplemented by more empirically-oriented analyses of *forms* of agency. In the field of social movement studies, for example, it is frequently asserted that collective agency is best analysed in terms of certain enabling and restraining factors, like ‘political opportunities, mobilizing structures, and framing processes’ (Wiedenhof 2008: 282). As Wiedenhof points out,

the concept of political opportunity is used to explain how social movements are constrained and enabled by macro-level structures, particularly the state [...]. At the meso-level, mobilizing structures – such as organizational forms, goals, tactics and networks – are used to explain how social movements shape collective action. A variety of framing processes, or cognitive schema that “organize experience and guide action” (Snow *et al.*, 1986: 464) are used to explain micro-level phenomenon, such as how collective understandings of the world are meaningfully constructed and maintained [...]. (*ibid.*)

Again, agency is analysed in a way that focuses on the agents and their actions, not on *change* as the end or purpose of agency: the analytical framework is constructed around the agents and the ways they enact their agency and on the conditions that limit such agency empirically. The study by Wiedenhof from which I quote here and in which she proposes a ‘framework for studying the politics of consumption’ (*ibid.*: 281) is a good example to illustrate the shift of perspective I have in mind that is required to broaden our

understanding of agency. In her study, she argues ‘that the relationship between consumption and collective action, or what I call the politics of consumption, can be best understood through four practices: mobilization, problematization, identification, and contention’ (*ibid.*: 282). Put another way, Wiedenhof wants to understand the politics of consumption by analysing an array of practices which are assumed to constitute or define such politics. Wiedenhof is not alone in her endeavour: a great number of studies dealing with political consumerism approach the problem from a similar angle (see *e.g.* Seyfang 2005, 2009; Connolly and Prothero 2003; Hobson 2002; de Pelsmacker *et al.* 2005).

While I do not deny the importance and validity of such research, I contend that by approaching agency only from the side of the agent one is only able to tell half the story. The underlying argument of this Chapter is that the purpose of agency is to achieve some impact or change in societal reality and that the question whether change is achieved or not and what kind of change is achieved depends first on the *mode* of agency and only in the second instance on the *forms* of agency that are enacted within a particular mode. The ‘politics of consumption’ are a case in point since political consumerism is one of the most significant areas of political agency in advanced capitalist societies: whereas consumer campaigns, boycotts and ‘buycotts’, labelling-schemes and so on are relevant forms of agency that need to be analysed, what is more interesting from the point of view of ‘change’ itself is to ask what kind and what degree of change can be achieved within the practice of ‘consumption’. The *mode* of agency that is at work in ‘consumption’, as I will argue in what follows, is that of ‘choice’ and it can be logically distinguished from other modes that bring about different kinds of change. All forms of agency that operate within the area of consumption are thus subjected to the particular rules and modalities of ‘choice’ (which I will develop below) and therefore share a common fate. Just what kind of fate

needs to be analysed on a different level and by different means than the various forms of agency that are empirically received. Hence, analysing the *mode* of agency operational in ‘consumption’, for example, will enable us to tell the other part of the story of agency and to ultimately relate both sides of the story. We will then be able to see the bigger picture and to apply it to the specific structural circumstances of liberal democracy.

3.2. ‘Agentic operators’: decision, choice, solution

I will analytically distinguish three modes of agency which I will also call ‘agentic operators’. I call them ‘operators’ because they do different things to reality, just like mathematical operators do different things to numbers. It makes a fundamental difference, I argue, whether I confront a political dispute or antagonism in the *mode* of choice, decision or solution just as it makes a difference whether I add, subtract, multiply or divide numbers. And, as will be seen, the *mode* in which a political goal is pursued or a dispute is ‘processed’ will have a significant impact on the *forms* of agency that will be involved and applied.

There are two distinctive criteria which determine the characteristics of the three agentic operators and which separate them from each other. One is the question whether or not the operator *eliminates the options* that are not selected in the operation. The other is the question whether the operator *selects between incompatible rationalities* or not, that is, whether or not it involves the passage through the field of *undecidability* (see discussion below). Each operator combines different answers to these two questions and therefore constitutes a unique way of ‘processing’ a conflictual, antagonistic or disputed reality. *Table 3.1* summarises the resulting typology.

	<i>Elimination of options</i>	<i>undecidability</i>
decision	✓	✓
choice	x	✓
solution	✓	x

Table 3.1: Typology of agentic operators

Of the three agentic operators ‘decision’ assumes a privileged position due to the fact that it is positive on both counts. Unlike choice, it eliminates the options not selected in the operation, and unlike solution, its operation has to pass the field of undecidability. In that sense it is the most radical agentic operator and therefore also the most problematic one from the perspective of regime-stability, especially within a liberal-democratic framework, as will be discussed in more detail further down. Conversely, the agentic operators ‘choice’ and ‘solution’, each of which is positive on only one of the counts, are deviant in that they either do not eliminate the options not chosen but leave them in the pool instead (choice) or do eliminate them but define the pool in such a way that no passage through undecidability is required (solution). As will be seen in the discussion below, choice and solution are therefore more conducive to the epistemic requirements of a liberal-democratic regime than decision, but in return their transformative capacities (i.e. their capacities to engender deep, ‘grammatical’ change) are severely limited. Before engaging in a thorough assessment of their capacities, functions and limitations, however, I need to further define the characteristics of the three agentic operators.

3.2.1. Decision

Decision can be regarded as the genuine agentic operator of ‘politics’ precisely because it ‘cuts’ through and ‘divides’ otherwise irreconcilable rationalities. Since it does not or

cannot take refuge in an overarching or unifying rationality that would guarantee or promise reconciliation, it has to flip the coin, so to speak, and choose one way by dismissing the alternatives.

One of two criteria a decision has to fulfil is that it eliminates those options that were not selected in the operation. The other criterion is that the selection process has to take place under conditions of undecidability. I will explain one criterion after the other. As is shown in *Table 3.1.*, the first criterion (elimination) is shared by two agentic operators, decision and solution. However, both apply it in a different way, depending on how they deal with the second criterion (undecidability). Let me first give a few examples for ‘elimination of options’ in the mode of decision: A judge who decides that a defendant is to be sent to jail cannot at the same time acquit the defendant - she can only select one option and has to discard all others; a person who decides to get married cannot at the same time stay unmarried; a government that decides to ban abortion cannot at the same time keep it legal; a committee that decides to appoint candidate X as its chair cannot at the same time appoint candidate Y.

And now some examples for ‘elimination of options’ in the mode of solution: An astronomer who determines the distance between two stars to be n light years will thereby dismiss all other results as incorrect; a doctor who diagnoses a normal cough will at the same time rule out the possibilities of pneumonia, lung cancer and other differential diagnoses; a government agency that follows an EU directive to set a limit of pesticide residues in vegetables will at the same time dismiss other limits; an engineer who solves a technical problem will at the same time dismiss alternative solutions as impracticable.

In the mode of decision, the elimination of options initiates a form of path dependence, where path dependence characterises a process whose outcome is '*not determined* by any particular set of initial conditions' (Goldstone 1998: 834, original emphasis). The act of selection, and thus the elimination of the options not selected, is essentially *contingent*, which means it is not determined by pre-established rules. According to James Mahoney (2000: 511), the criterion of contingency in a path-dependent process 'rules out the possibility of predicting a final outcome on the basis of initial conditions'. And what in retrospect is a contingent outcome, for the deciding agent is the experience of undecidability: there is no pre-established rule guiding the operation of selection.

The difference between elimination under conditions of undecidability ('decision') and under conditions of decidability ('solution') can be illustrated with another example. Imagine two ramblers: one has a clear aim and is equipped with a map and a compass or GPS device; the other rambles without a clear aim. For the first Rambler, a fork will not constitute an experience of undecidability, but simply a 'problem' to which there is only one valid solution. She will consult the map and the compass and select the correct path. Her action will be guided and pre-determined by the existence of her final aim and by the devices of navigation she has available. Those paths which do not get her to her final destination do not have the status of real 'options' in the first place – their role is to be dismissed. She might make an error in navigation and select the wrong path, but that is something different than deliberately choosing it. For the second Rambler, however, every fork will mean an experience of undecidability in that every new path is a real option. Without a final aim the Rambler will have to make up her mind at every new fork according to criteria which do not need to be coherent or pre-defined. She can let her 'mood' decide, or considerations of safety, aesthetics or the path's difficulty. While the task of the first

rambler is to repeatedly solve problems of navigation throughout her hike, the task of the second rambler is to overcome the experience of undecidability by making decisions.

As the reader may have noted already, the notion of undecidability is derived from Jacques Derrida's theory of decision. In *Force of Law* Derrida develops his aporetic notion of decision by establishing in a first movement the *normative* claim that every act of justice requires an act of decision and not just rule-following. He then deals with the resulting *logical* problem of how a decision is possible if not as a form of rule-following and comes up with the aporetic formula that every decision has to 'go through the ordeal of the undecidable' (Derrida 1990: 963).

'The undecidable is not merely the oscillation or the tension between two decisions, it is the experience of that which, though heterogeneous, foreign to the order of the calculable and the rule, is still obliged [...] to give itself up to the impossible decision, while taking account of law and rules. *A decision that didn't go through the ordeal of the undecidable would not be a free decision, it would only be the programmable application or unfolding of a calculable process*'. (*ibid.*, my emphasis)

The logic of the undecidable, I maintain, constitutes a fundamental insight into the very form of 'decision' as an 'agentic operator'. Undecidability means that a choice between divergent rationalities, between different ways to approach an issue that needs to be processed by agents, cannot itself be guided by an overarching rationality. Ernesto Laclau, whose theory of hegemony is indebted to Derrida's theory of decision, provides an account of the essence of 'decision' that is identical to my definition of decision as an agentic operator when he writes that

a decision, in order to be a decision, has to be taken in a structurally undecidable terrain – otherwise, if the decision was predetermined by the structure it would not be *my* decision. The precondition of a decision is that actual choice is not algorithmically prefigured. But in that case, if the decision

is its own ground, the discarded alternatives have been simply put aside, that is, excluded.

(Butler and Laclau 2004: 332)

Without any ‘structural’ guidance by an overarching rationality that prefigures the choice to make, the act of decision itself can be regarded as *irrational*. It is thus that ‘[t]he instant of decision is a madness’, as Derrida (1990: 967) maintains, paraphrasing Kierkegaard (1985). It is madness because for that moment the agent is beyond rules, because she is deciding upon rules. It is this sort of madness that is necessary not only in the ethical sense to enable justice, but in a very logical sense to create something new: without stepping beyond the determinism of existing rules, new rules and principles cannot emerge.²⁸ Hence the ‘political’ and ‘radical’ character of the agentic operator ‘decision’: it eliminates the options not chosen, but it does not accept the guidance of an overarching rationality to make its choice; it is in that sense ‘mad’, which is just another word for not giving oneself up to established rules or rationalities.

In a democracy such operations of ‘undecidable’ eliminations of options are usually carried out in majority decisions, where that which decides, which constitutes the ‘madness’ of the decision is the ballot, the aggregate of individual votes. In undemocratic forms of government, however, such operations are carried out by the charismatic leaders or the ruling elites. In other cases, decisions come as acts of violence from ‘below’, as ‘events’ in the strong sense of the word, as revolutions and revolts. Hence, there is a remarkable diversity in the forms a political decision can take. Only some of them are democratic and democracy has always been haunted by the inherent violence (the ‘cutting and dividing’) of its most genuine agentic operator. *Liberal* democracy, it has been argued, is the

²⁸ It is thus that Ernesto Laclau formulates that the ‘moment of decision [...] is the moment of the subject’ (1996b: 54-55). I will deal with the meaning of the agentic operator ‘decision’ in Laclau’s hegemony theory in much detail in Chapter 5.

historical attempt to remedy democracy's excess of passion and arbitrary will-power, its 'decisionism', its inclination to respect no authority other than that established in a majority decision (*e.g.* Dahl 2006 [1956]; Holmes 1995; Held 2006; Elster and Slagstad 1988; Wolin 2001). This, of course, is only one way of constructing the narrative of liberal democracy, as my notion of 'epistemic legitimacy' (Chapter 1) suggests, which offers an alternative approach to understanding liberal democracy. While liberal theorists (and deliberative democrats²⁹) tend to argue that 'reason' itself must constitute an overriding rationality within which antagonism can be appeased and that liberal (or deliberative) institutions create the conditions for that to happen, I will argue, conversely, that the main effect of liberal institutions is to virtually eliminate the agentic operator 'decision' from the agentic repertoire of society so that the thorn of rupture is systematically prevented from pricking. The difference between these two views is that between a normative justification and a functional explanation. One purpose of this Chapter is therefore to show how 'decision' has been 'tamed' and partly replaced by a systematic privileging of the other available agentic operators.

3.2.2. Solution

The characteristics of the agentic operator 'solution' have already been touched upon indirectly in the above confrontation with those of 'decision'. Their formal definition is very simple: a solution eliminates the options not chosen in the operation without having to pass the field of undecidability. Hence we can further define a solution as the operator that is applied in a 'decidable' structure where the selection of an option means the performance of a calculation or a programme. A solution thus executes a set of rules or a type of rationality. Strictly speaking, then, a solution does not 'select' an option but arrives

²⁹ For a discussion of deliberative democracy with respect to political agency see Chapter 4.

at it (the ‘result’) by way of an inherent necessity (the rationality within which it operates). The absence of undecidability has the important effect that there is no antagonism or incompatibility to overcome; that what has to be ‘solved’ instead has the logical structure of a ‘problem’. There is no idiosyncrasy, no singularity involved, and at no point is there any kind of ‘madness’ required to bridge or choose between incompatible rationalities. The solution is already ‘inherent’ in the ‘problem’; it only needs to be revealed and laid bare. What separates the problem from the solution is ignorance, not undecidability.

Not surprisingly, solution is the dominant agentic operator in the realm of public administration, or in what could be called the technologico-administrative apparatus that constitutes the rational interface of the spheres of the economy and of the state in modern capitalist societies. This prevalence of ‘solution’ as a mode of agency in modern capitalist societies has famously (if in different words) been described already by classical sociologist Max Weber almost a hundred years ago in his analysis of modern bureaucracy.

Bureaucratization offers above all the optimum possibility for carrying through the principle of specializing administrative functions according to purely objective considerations. Individual performances are allocated to functionaries who have specialized training and who by constant practice increase their expertise. “Objective” discharge of business primarily means a discharge of business according to *calculable rules* and “without regard for persons”.

(Weber 1968: 975, original emphasis)

Weber insists that of these two elements, *calculable rules*

is the most important one for modern bureaucracy. The peculiarity of modern culture, and specifically of its technical and economic basis, demands this very “calculability” of results. [...] Bureaucracy develops the more perfectly, the more it is “dehumanized,” the more completely it succeeds in eliminating from official business love, hatred, and all purely personal, irrational, and emotional elements which escape calculation. This is appraised as its special virtue by capitalism (*ibid.*).

Hence it is precisely this *calculability* Derrida has defined above as the opposite of undecidability that rests at the core of the agentic operator of solution. It is interesting to note, in this regard, that Derrida's critique of the tendency to conflate the notions of law and justice in modern, rationalised societies is already captured by Weber. In quoting this passage, I do not intend to engage in that discussion but do wish to bring out once more the distinction between decision and solution:

The conception of the modern judge as an automaton into which legal documents and fees are stuffed at the top in order that it may spill forth the verdict at the bottom along with the reasons, read mechanically from codified paragraphs – this conception is angrily rejected, perhaps because a certain approximation of this type would precisely be implied by a consistent bureaucratization of justice (*ibid.*: 979).

Weber concedes that there are, of course, countervailing forces in society that do not readily succumb to the totalising of the bureaucratic principle. The principle of democracy, for example, whose development historically paralleled that of bureaucratisation (*ibid.*: 984), is in a constant state of tension with the principle of bureaucracy. Its urge for public accountability and its push towards 'expanding the sphere of influence of "public opinion" as far as practicable' (*ibid.*: 985) pits it against the closed rationality of bureaucracy. Democracy, as Weber points out, 'inevitably comes into conflict with the bureaucratic tendencies which have been produced by its very fight against the notables' (*ibid.*: 985). Ultimately, "'democracy" as such is opposed to the "rule" of bureaucracy, in spite and perhaps because of its unavoidable yet unintended promotion of bureaucratization' (*ibid.*: 991). Weber leaves no doubt that the status of democracy in modern capitalist societies is circumscribed by the superior logic of bureaucratic administration. While it would be too simple to say that the agentic operator 'solution' is *per se* undemocratic or cannot be reconciled with the democratic principle, there is a certain tension between 'solution' and democracy that will have to be addressed in the course of this Chapter. This tension starts

to become tangible once *political* matters (i.e. matters that involve moral, ideological, aesthetic or other forms of undecidability) are subjected to the operator of solution, whereby their undecidable nature is negated and the matter ‘de-politicised’. What Weber makes us aware of is that this tendency seems to be inherent to modern bureaucracies and thus to modern democratic societies.³⁰

3.2.3. Choice

If we take another look at *Table 3.1*, we see that the agentic properties of choice are exactly opposite to those of solution. Both share one criterion with decision but lack another. While solution resembles decision in the fact that both eliminate the options not chosen, choice resembles decision in the fact that both are undecidable. While solution differs from decision in that it is decidable, choice differs from it in that it does not eliminate the discarded options. In everyday language, the terms ‘choice’ and ‘decision’ are often used interchangeably. ‘You have to make a choice!’ and ‘You have to make a decision!’ are often used to mean the same thing. The act of choosing is intuitively understood to be a decision; on the other hand, a decision requires a choice between options. Hence, there seems to exist a somewhat complicated relationship between the two terms that is rarely noticed, let alone theorised.

The definition of ‘choice’ I propose here is that every act of choice is characterised by the undecidability between the options involved, but that the options not selected are not eliminated from the pool. I argue, furthermore, that this mode of agency is the genuine

³⁰ In his essay ‘Governmentality’, Michel Foucault (1979) offers a revealing historical account of what could be called the emergence of the agentic operator ‘solution’ in modern Europe. On the basis of Foucault’s findings, the problem of ‘de-politicisation’ is further analysed by Jacques Rancière (2002) who builds on the Foucaultian distinction between ‘politics’ and ‘police’, arguing that the functions of politics in modern democracies are increasingly being replaced by the functions of policing, which comprises what Weber summarises as bureaucracy.

mode of the marketplace. An example might illuminate this seemingly paradoxical definition: when a person wants to buy a chocolate bar at the corner shop, she will inevitably go through the experience of undecidability in view of the choice of chocolate bars the shop offers. There is the rich and milky option, there is the dark and nutty one, there is the morally superior fair trade option, competing with the organic-but-non-fair trade one, there is the 'light' and crispy one, and they all come at different prices; plus there are different levels of attachment to different brands conveying different values of image and identity that complicate the picture. After something between two seconds and two minutes an ordinary shopper will have made her choice and picked one of the various chocolate bars. Crucially, however, the other chocolate bars, those she had not chosen, will remain there in their shelves and will not disappear. The shopper could buy another one right now, or she could buy a different one the next day or every following day without her choice making any difference to the range of options she can pick from. Every time she shops, the range of options from which she can choose will be about the same. Whatever choice she makes, her choice will never have the effect of eliminating the options she does not choose.

The very point of the mode of agency that is constitutive of markets, then, is that 'acting' in the market place is like being stuck in a 'Groundhog Day' experience, so to speak: we can have one option today and will always have another chance the next day to try another option; the 'setting' of our agency, the 'pool' from which we choose, will be the same, independent of our individual choices. Hence, one crucial consequence of the agentic mode of choice is that *on the individual level* it does not trigger any path dependence: the choice I make today does not close off other options for the future; I can – in principle – repeat or change my choice indefinitely within the same setting. On the systemic level of the market,

however, the aggregate of individual choices does indeed have an effect on the range of options (products) available to choose from – which is another way of defining the *market mechanism*, which coordinates demand and supply. While the aggregate of myriad individual choices returns to the individual as an ‘external’ reality, that is, as the ‘given’ range of options available for selection, the individual operation of choice is epistemically separated from this level of reality and factually isolated as an agentic act.

The first characteristic of the definition, the presence of undecidability in the operation of choice, is clearly accounted for in the extensive literature on consumer behaviour within the discipline of consumer research. Many studies in this field take as a starting point the assertion that ‘[p]eople’s choices are usually driven by multiple conflicting goals’ (Fishbach and Dhar 2005: 82); or that ‘[c]onsumer decisions are often not based on well-defined preferences and are instead influenced by the characteristics of the choice context’ (Hamilton et. al. 2007: 187). Researchers in consumer-behaviour thus seem largely to agree nowadays that consumers are not merely rational calculators of utility in determining their preferences, but multi-layered beings whose choices are subject to multiple and often conflicting impulses, feelings, interests and rationalities.

The second criterion of my definition, that choice does not eliminate the discarded options and therefore does not trigger path-dependence in any comprehensible sense, is implied in most theories of the market, but rarely stated explicitly. This however might have more to do with the obviousness of the proposition than with the fact that it has been overlooked by market theorists. Indeed, when economists talk about the concept of choice, they normally focus on its selective properties, that is, on the necessity to choose from available options given the universal economic fact of scarcity. ‘To the individual’, as Bye (1956: 326)

points out, ‘the scarcity takes the form of a limited money income. [...] Therefore, nearly every consumer is compelled to choose which desires shall take precedence over others’. Consequently, ‘[t]he choice of one thing eliminates the opportunity to choose another’ (Haveman and Knopf 1970: 10). Do we have to conclude, then, that choice eliminates the neglected options after all? Not quite. Central to the economic conception of choice is that it is embedded in an infinitely repeatable, circular structure: as goods and services get consumed and income renewed, new demand is generated and a new round of choices is to be made. With every new month, new income is available on the basis of which ‘the consumer chooses the affordable bundle [of goods] that maximizes his or her utility’ (Begg *et al.* 1991: 80). Hence, when I buy a pair of shoes I do not make a decision that eliminates all other shoes on the market but I will find the choice of shoes intact even a year later when I might want to buy another pair. Similarly, when I buy apples today this does not mean that I have ‘decided’ for apples once and for all – instead, the purpose of choice is to have it time and again: the next time, I might go for pears or bananas. Every act of choice therefore indeed involves an incomplete or truncated decision in that the options not selected in the operation must disappear for some time – so long as my desire is satisfied or my budget is used up; however, all these options are bound to reappear as soon as the needs and desires are regenerated and/or my budget renewed.

The fact that choice does not cancel options directly but that it still accounts for some form of change by modifying the pool of available options over time is responsible for the steep ‘career’ of this mode of agency in liberal democratic settings over the past decades. Political and ethical problems are increasingly being relegated to the individual in her capacity as a consumer and as a ‘chooser’. Choice has become a keyword not only in describing liberty in a consumer-society but also in describing responsibility. The citizen is

invited to act on problems by making choices, but not by making (or calling for) decisions. Thus, political and societal change is increasingly expected and hoped to emerge as the aggregate of individual changes in lifestyles and patterns of consumption. The individual is declared the responsible agent and her lifestyle the adequate vehicle for change (*cf.* Micheletti 2003; Blühdorn 2007). Giddens captures the spirit of what he calls ‘life-politics’ neatly in the following passage:

Lifestyles are routinised practices, the routines incorporated into habits of dress, eating, modes of acting and favoured milieux for encountering others [...]. Each of the small decisions a person makes every day – what to wear, what to eat, how to conduct himself at work, whom to meet with later in the evening – contributes to such routines. All such choices [...] are decisions not only about how to act but who to be. (Giddens 1991: 81)

It is crucial for the logic of agency I am developing in this Chapter to see that no personal choice of what to buy and how to act is endowed with the power to cancel out the options it deselects for ethical or political purposes. Hence, all one can hope for from acting in an ethically sound way is that others will follow the example in order to achieve aggregate change. Put in Kantian terms, politics is a matter of acting ‘according to that maxim whereby you can at the same time will that it should become a universal law’ (Kant 1993 [1785]: 30). The real *object* of the agentic operator of choice, as Giddens’ remark clearly shows, is the individual, the chooser. The effect of ethical choice is the creation and development of a better ‘self’, of a new identity: the more consistent someone is in making their choices on moral or political grounds, the stronger their aspired ‘self-identity’ will grow. Our being consistent in our vegetarianism and in our dedication to fair-trade products will surely leave tiny traces on the material surface of the world, but the question is to what extent it can bring about change in a societal dimension. This question will be addressed in more detail further down when the ‘transformative capacities’ of choice will be analysed.

3.3. ‘Governing agency’: epistemic legitimacy and agentic operators

Now that I have analytically distinguished the three modes of agency which I believe to dominate modern societies, it is time to find out how they are put to work within the liberal democratic framework. The purpose of this section is thus to investigate the ways in which the ‘epistemic architecture’ of liberal democracy influences or determines the ways in which political agency in liberal democracies is organised and put to work.

As we know from Chapter 1, it is the foremost imperative of the state to limit the scope of societal reality that requires active legitimation. We can thus quite easily find out which agentic operators serve this imperative and which do not. Let us first consider ‘decision’. I have defined above the agentic properties of ‘decision’ to be that it (a) has to pass through the terrain of undecidability and (b) eliminates the options not chosen. The combination of these criteria make ‘decision’ a very powerful but also disruptive and potentially destructive agentic operator and it is easy to see why decisions are dangerous for a government to make, at least when the matter at hand is of societal relevance. Every decision on an important matter means that societal reality is altered in favour of one particular way of seeing the world and against the will of those who do not agree with this view. The resulting reality has to be legitimated by those in charge (usually the government and party leaders). Making a decision necessarily means not being neutral. And this is a problem for a state that is built on the premises of representation, that is, on the idea that a few govern in the name of all. Every decision on the part of the government will be perceived as *misrepresentation* by those who lost out. We can therefore define as a first careful result that the agentic operator ‘decision’ is dangerous for the institutional structure of representative government, since it poses a threat to a government’s capacity to legitimise its actions. Although this result should not come as a surprise, it still feels odd to

state it in all clarity: the liberal, representative state is ill-prepared to make decisions. Any decision that would visibly change the content of societal reality could seriously jeopardise the state's basis of legitimacy.

This insight is usually turned on its head by liberal theorists and re-phrased as a moral imperative instead of a structural necessity in that it is referred to as the liberal state's commitment to neutrality (see, *e.g.*, Ackerman 1990; Dworkin 1978). The fact is that the liberal state as a theoretical concept never required making decisions in the strict sense, because all relevant questions of societal organisation would already be defined by the liberal order itself which would be based on morally justifiable, rational principles. Politics in the liberal state (even in the Rawlsian state, one might argue) would be reduced to enacting and 'living' the overarching rationality that is political liberalism itself. Questions that would alter the contours of societal reality would not even appear on the political agenda, but would by definition be delegated to the realm of private choice, as David Dyzenhaus points out:

On the social level, political liberalism thus has the effect of encouraging individuals to regard their views as to the good life as matters of purely private choice. It cannot in fact ensure that individuals will so regard their views. Thus at the political level, political liberalism seeks to restrain exercises of political power that appeal to such views. Hence it forces all citizens to subordinate their views to the values of political liberalism. And that further forces them to privatize their views about morality – to rule their own lives and only their own lives by what they consider to be morally sound. (Dyzenhaus 1997: 228-29)

The concept of epistemic legitimacy suggests that these intrinsic traits of the liberal state are not effects of a general consensus on the moral superiority of the liberal doctrine, but that they are necessary results of the epistemic architecture of liberal-democratic societies. After all, very few liberal-democratic countries are ruled by liberal parties, but all of them comply with the de-facto liberalism that is built in to their structures. Against normative

liberals I thus argue that what makes governments in liberal-democratic regimes shy away from decisions, and thus from acts of taking on responsibility for a particular form of societal reality (in other words: from breaching state neutrality), is not the fear of doing morally wrong but the fact that this would shatter the basis of their epistemic legitimacy and thus of the state's stability.

Let us examine 'choice' next. As defined above, its agentic properties are (a) undecidability and (b) that it does *not* eliminate the options not selected. We can immediately see how choice is a great alternative for the liberal-democratic state. In order for the epistemic basis of legitimacy to remain intact, matters that cannot be subjected to an overarching rationality have to be left open, i.e., relegated from the societal to the individual level. This is the case not only for the most fundamental and undecidable matters like the individual choice of religion, but also for various matters that shape the material contours and phenomena of societal reality. Undecidability abounds, for example, when we think of the current ecological crisis and of problems of social inequality: *should* radical changes in the social metabolism, that is, in the ways societies produce their goods and consume their resources (*cf.* Fischer-Kowalski and Haberl 2007), be subjected to collective decisions? It is hard to imagine a compelling *normative* argument that rules out decisions on these matters categorically. But can such issues be decided under circumstances of *epistemic* legitimacy? That is a different matter altogether. Just as with freedom of religion, any government daring to openly change societal reality for all will have to fully justify the resulting reality. It is thus the wise thing to relegate such issues, again, to individual and corporate choice, and to avoid making reality appear to be a creation of the state, especially when that reality might involve higher prices for some

goods like meat and fuel, less consumerism, and an ‘undecidable’ shift in the way we define and measure ‘prosperity’.

Finally, let us consider ‘solution’: as we have seen above, this is the mirror-image of ‘choice’ in that its agentic properties are the reverse of those of choice. Solutions are (a) decidable and (b) eliminate the options not selected. Hence, the latter criterion, which is a threat to epistemic legitimacy under conditions of undecidability, is disarmed by the former criterion, which subjects the matter to an overarching rationality. What characterises the operator solution in practice is that it can only operate once the undecidability inherent to a matter is transformed into a ‘problem’ within that generally accepted rationality. As we have seen, Max Weber called this rationality that of bureaucracy; more recently, John Dryzek (2005: 75) termed it ‘administrative rationalism’, which ‘may be defined as the problem-solving discourse which emphasizes the role of the expert rather than the citizen or producer/consumer in social problem solving [...]’. While choice is the genuine operator of the market and not something the state can provide itself, solution is the operator of the state’s administrative apparatus. Solutions are relatively easy to justify to the public since they are only the answer to a rationally defined ‘problem’ and not to an undecidable matter. However, the fact that the options not selected are eliminated still hurts in many cases. If, for example, a governmental body, after much scientific consultation, comes to the conclusion that a certain level of nitrate in the groundwater causes too many cases of cancer and therefore decides to implement stricter rules for agricultural production in sensitive areas, this ‘solution’ will be greeted by some and criticised by others. The elimination of options not selected might still be considered an unwarranted intervention of the state by some farmers and industrial lobbies, but the state will usually have little problem justifying it with reference to either international law (EU-

regulations or directives), UN or OECD health standards, or scientific evidence that justifies stricter rules.

Of course, and this is an important caveat, there is a significant amount of undecidability left in most ‘solutions’: the interpretation of scientific data, the value-judgement of what comes first, public health or agricultural output, the selection of experts for advisory committees, etc. are all potentially undecidable and thus political matters (*cf.* Boström and Klintman 2008, 4ff). However, the crucial point is that the agentic operator of solution disarms the explosive potential of undecidability by subjecting the matter as completely as possible to scientific and/or administrative rationalism. Such de-politicisation is in itself a political act. It is therefore crucial to bear in mind that solutions are, in many cases, suppressed decisions and that the ‘violent’ and disruptive aspect of decision-making is eliminated simply by the more covert but none the less violent act of forcing an undecidable matter into the shape of a ‘rational’ problem.

In sum, we can portray the agentic position of the state as follows: it finds it very difficult to openly make decisions about matters that change the contours of societal reality; instead it tries to identify and filter out the aspects of undecidable matters that can be transformed into ‘problems’ within scientific and administrative rationality in order to find ‘solutions’ for them; whatever undecidable matter is left over has to be relegated to the market or to individual behaviour where it is dealt with in the mode of ‘choice’.

Before presenting a first sketch of the economy of agency in the liberal-democratic system, we should take a quick look at the public sphere in order to determine its function with regard to the deployment of agentic operators. What is perhaps most striking about the

public sphere in terms of its function within the economy of agency is that it does not possess a formal structure nor command a particular mode of agency. As a ‘political’ sphere *outside* the state it has neither the structures nor the authority to make ‘decisions’ or to implement ‘solutions’ – it simply is a sphere of discourse without any formal power. And ‘discourses’, as Habermas (1992: 452) points out, ‘do not govern’. Nevertheless, or perhaps because of that, the public sphere’s importance to political agency cannot be overestimated. Its main function, I suggest, is that of providing the space for the articulation of political demands and for the mobilisation of public support for them. In liberal democracies, the public sphere is the generator of diverse ‘political wills’, as it were, which are directed towards the sphere of the state (and, increasingly, towards corporate actors in the market). The important difference between the political wills articulated in the public sphere and the political will (singular) articulated in parliament is that the former are free of the structural constraints of epistemic legitimacy, whereas the latter is formed under the state’s agentic restrictions (thus ruling out decisions in many cases from the onset and aiming at solutions and choice instead). The public sphere thus generates diverse but non-representative ‘wills’ of the people, whereas parliament generates a formally representative will that is, however, structurally separated from the people in that it is always already an ‘administrative’ will.

The public sphere is less concerned with what is ‘possible’, so to speak, than with what is ‘desirable’. The fact, furthermore, that the diverse forces of civil society that are active within the public sphere do not need to subject their will to an overarching rationality means that both undecidability and the wish to eliminate the options of adversarial points of view are very much alive. Within the public sphere, the agentic operator of decision thus figures prominently in many discourses and political demands without, however, having a

chance of being enacted within that same sphere. In sum, the *function* of the public sphere within the economy of agency in liberal democracies, I suggest, is to articulate *demands* for decisions and to direct them towards the sphere of the state and – less frequently – towards corporate actors in the market. Hence, the public sphere is – theoretically – the sphere of decision, that is, the sphere where undecidable matters are debated and demands for decisions articulated; however, since the public sphere has no authority and no structures to make decisions, it can only direct its demands towards the representative institutions of the state. There, the demand for decisions typically gets deflected (choice) or transformed (solution).

We are in the position now to show a first – simplified – sketch of the economy of agency within liberal democracies in *Figure 3.1* and *Figure 3.2*:

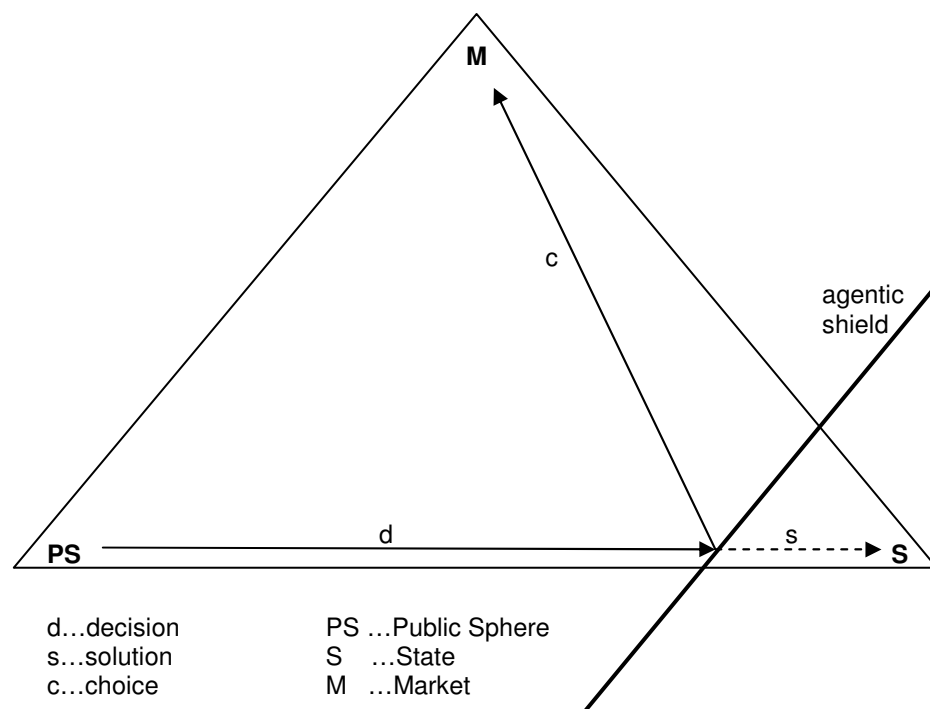


Figure 3.1: The agentic shield of the state

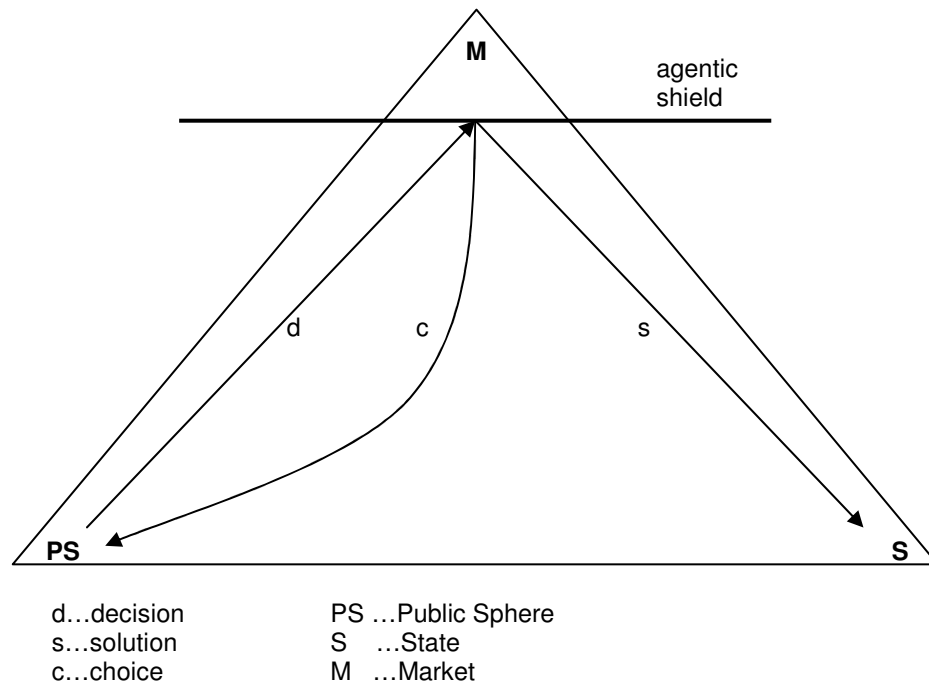


Figure 3.2: The agentic shield of the market

In both diagrams I represent the fact that the state and the market are not able to process decisions on a societal level – the former because of the restrictions of epistemic legitimacy, the latter because of its lack of collective and transparent agency – by introducing a barrier called the ‘agentic shield’. In the case of the state, this shield deflects undecidability into the market (where it reappears as ‘choice’) and filters out those aspects of undecidable matters that can be transformed into rational ‘problems’. In the case of the market, the shield deflects public demands for societal decisions back to the public sphere in the form of choice (‘We produce what consumers demand. You, the individuals, have to make your choices!’), and to the state as a call for administrative and regulatory solutions (‘If the public wants organic food, we need legal standards on the basis of which to operate, so that we can offer a real choice!’).

One example for the functioning of the liberal-democratic economy of agency is the politics of genetically modified (GM) food.³¹ In many liberal-democratic countries the emergence of GM food on the market during the 1990s was followed by severe and sustained criticism in the public sphere. One of the most common demands articulated within the public sphere was the demand for a comprehensive ban of GM food and feed. Civil society organisations in many countries were able to gather significant support for this demand and drew a lot of public attention to the issue. The demand to ban GM food was, of course, the demand for a *decision* on the part of the state. The state, in many cases, acted precisely as the economy of agency just described commanded it to act by doing two different things: on the one hand, the demand for a decision was relegated to the market and to the mode of choice. The state argued that it was up to the individual citizens to make their own choice whether they wanted to consume GM products or not. On the other hand, the state needed to find and put in place a range of administrative and scientific solutions: laws needed to be passed that regulated the market approval or dismissal according to their anticipated health and environmental risks. For that, complex scientific methods and procedures needed to be standardised and expert bodies and advisory committees to be installed. Furthermore, the state needed to provide regulatory standards and mechanisms to segregate GM from non-GM food and to label GM food accordingly in order to enable the ‘choice’ in the market it promised to the public. Hence, the state filtered such issues as ‘objective health and environmental risks’ and ‘informed consumer choice’ out of the undecidable question whether genetically modified organisms (GMOs) should be banned altogether or not, and started working on ‘solutions’ for these rational problems. By offering solutions to some of these problems, state actors hoped to assuage the heated debates and to disperse the demand for a wholesale decision on the matter. The

³¹ For an overview of the politics of genetic engineering in Europe and the United States see Gottweis 1998.

‘undecidable’ question whether GMOs were good or bad for society would now be relegated from the level of collective decision-making to individual choice, whereas on the collective level rational rules and scientific standards would make sure that predictable risks to public health and the environment were averted. Like with many other issues, the agentic regime of liberal democracy worked quite efficiently.

A relatively recent phenomenon within many liberal democratic states (particularly with the European Union) is the initiation of various processes of public consultation and participation in matters where governments seek increased public legitimation. This development normally goes under the name of ‘governance’. According to Peters and Pierre (2006: 209), the term refers to the fact that the state increasingly sees its role in facilitating the collective ‘steering and coordination of society’ instead of its unilateral *government*. Following another definition, governance reflects ‘the need for cooperation among the state, quasi-state, non-state (nongovernmental), and private institutions like corporations to solve collective-action problems and to take responsibility for citizen well-being’ (Micheletti 2003: 5). In a study on the role of social movements in contemporary democracies, Klaus Eder (2001: 220) goes as far as to argue that ‘politics is shifting towards a different field: it is no longer tied to the state and the field of action defined by state institutions’. Instead, ‘[a] new type of interconnection emerges between the society as represented by social movement organizations, the economy as represented by industrial organizations (including trade unions), and the government as represented by the administrative organizations of the modern state’ (*ibid.*: 221).

Translated into the conceptual terms I have developed here, the phenomenon of governance can be interpreted as a process in which the state and its administrative bodies

extend their mode of agency, namely solution, deep into the public sphere by incorporating some of its actors into semi-formal structures that are now referred to as those of 'governance'. By inviting actors from 'civil society' (that is, actors of the public sphere) to participate in the administrative and political procedures of the state, governments have more control over the rules of the game, as it were. As Newman *et al.* point out, the processes of consultation that are typical for governance are often geared towards 'enabling the public to operate within the norms set by the bureaucracy, rather than enabling bureaucrats to hear and respect the experience that participants bring to the process of participation. [This] suggests a process of possible *incorporation* of the lay public into official institutions' (Newman *et al.* 2004: 211-12, cited in Smith 2009: 17, original emphasis). Civil society actors who were hitherto used to articulating (radical) demands for collective change and decisions now have to translate these demands into the language and agentic structures of the techno-administrative sphere of the state. Hence, they are (sometimes inadvertently) made to leave aside the 'undecidable' aspects of their demands in order to become compatible with the logic of 'governance'. The aim of such procedures is usually to agree on a common 'problem' for which a common 'solution' can be sought.

Given the limited opportunities for civil society actors to turn their original (radical) demands into political action due to the effectiveness of the agentic shield of the liberal democratic state many such actors have chosen to participate in processes of governance in order to secure some sort of political influence. Hence, to accept the agentic mode of 'solution' as the modern battlefield of politics appears to be the only available option for many non-governmental organisations. In most cases, however, this entails the abandonment of 'undecidable' aspects of political demands and imaginations. As a

consequence, the political imaginary of liberal-democratic societies gets impoverished in terms of its ideological variety. When the search for techno-administrative ‘solutions’ to our societies’ ‘problems’ becomes the dominant occupation of actors in the public sphere, then there is little time, space and energy left for the elaboration of alternatives that do not adhere to the dominant rationality. In other words: the zone of the ‘possible’ takes control over the public sphere to an extent that ever more ‘intelligible-but-impossible’ demands get marginalised and find ever fewer advocates within civil society (*cf.* Cooke and Kothari 2001).

The phenomenon of ‘governance’ is illustrated in *Figure 3.3* Note that the ‘agentic shield’ has now moved deep into the public sphere, submitting the largest area within the triangle to the control of the agentic operator ‘solution’.

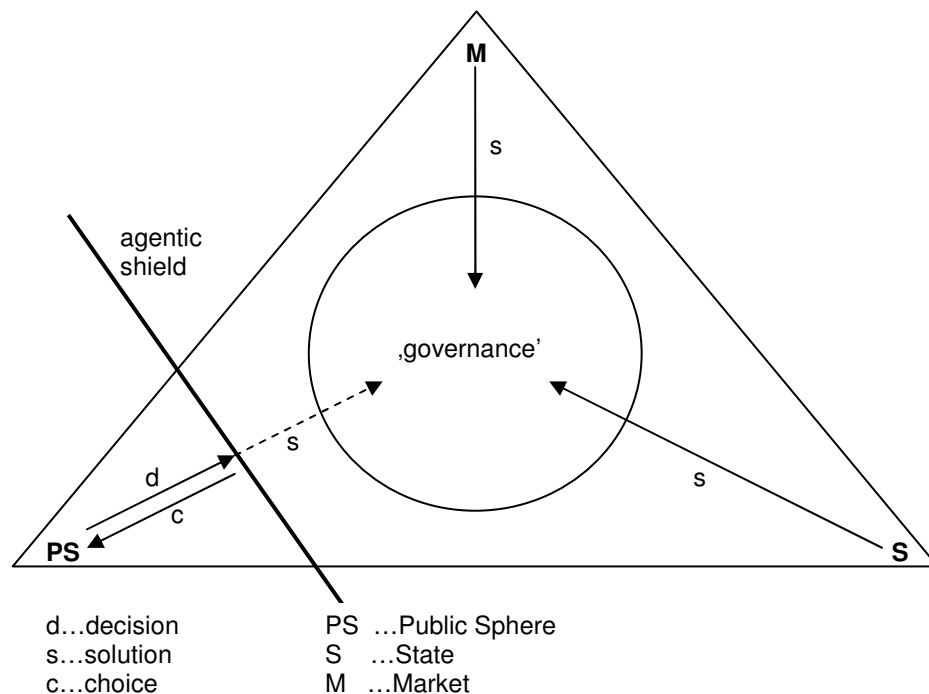


Figure 3.3: The agentic shield of ‘governance’

3.4. The ‘transformative capacities’ of agentic operators

It is now time to investigate the relationship between the economy of political agency in liberal democracies as described above and the concept of ‘transformation’ as developed in Chapter 2. Relating the regime of agentic modes that is set in motion by the organising principle of epistemic legitimacy to the concept of transformation will, I believe, provide us with some crucial insights into the ‘limits to change’ in liberal democracies.

In Chapter 2, I defined ‘political transformation’ to be a process in which ‘political grammar’ is mutated in order to incorporate an ‘element’ of the ‘political imaginary’ that was hitherto only ‘intelligible’ but not ‘possible’. The newly incorporated element inscribes itself into grammar and thus alters it. Furthermore, I have argued that usually only such elements get incorporated into grammar, which are already ‘semi-possible’, that is, whose meaning is already partly accommodated by grammar. Only rarely can ‘intelligible-but-impossible’ elements be directly incorporated into grammar. Crucially, as I have pointed out, elements cannot incorporate *themselves* into grammar – they do not have any agency of their own (since they are only articulations of meaning, patterns of behaviour, etc.). They require some external ‘trigger’, some sort of ‘event’ to happen, which provides for the rupture (or the ‘trauma’, as we might also call it) that momentarily suspends the workings of grammar and allows for a new element to suture the wound that was inflicted by the event. In what follows, I shall analyse the ways in which the three modes of agency contribute to the process of transformation.

3.4.1. The transformative capacities of ‘decision’

As I have pointed out before, the agentic properties of ‘decision’ – undecidability and the elimination of options not selected – make it the most radical agentic operator. The

simultaneity of both properties in fact means that every decision is itself an event, a singularity: undecidability is experienced, an option selected, and the others are eliminated. A decision is always an event that triggers path dependence. In the language of transformation this means that the decision ruptures grammar and simultaneously provides the patch to reseal the rupture: it incorporates the new element which instantaneously becomes part of a *changed* grammar.

In terms of its formal properties, then, ‘decision’ is the only agentic operator that has the potential to *actively* trigger transformation. However, it has to be noted that not every decision will automatically do so. Whether the event of a decision is able to incorporate a new element into grammar hinges on a range of circumstances: first of all, the element in question is more likely to be incorporated into grammar if it is already ‘semi-possible’, that is, if its full validity as a part of grammar is barred only by an ‘aspect’ of its meaning (like in the case of smoking-bans, where the health-related rationale was at some point fully accommodated by grammar but the aspect of interfering with individual choice still posed an obstacle to the incorporation of the element ‘smoking ban’ for some time) – in other words, the part of the element that is already ‘inside’ grammar has a function in pulling the ‘barred’ part aboard. If, on the other hand, a decision were made to *jail* every smoker for smoking in public, the situation would be a different one in most societies: the element would be ‘intelligible’ on the basis of the pre-existing debates about smoking and bans, but it would be still ‘impossible’ in most societies to jump directly from discouraging a habit to jailing people for following it – the intelligibility of the demand would not suffice to break the grammatical barrier. Hence the difference between ‘semi-possible’ and ‘intelligible-but-impossible’ elements.

Secondly, the status of the decision itself within the institutional structure of a society is important; in other words, a decision's legitimacy plays a role in determining whether the rupture it inflicts will be a transformative one or not. If a decision is imposed on a society by a small elite, it might forcefully rewrite the political grammar of that society, but this does not necessarily mean that grammar *accommodates* the imposed element. As soon as force is lifted, grammar might reject the imposed element. Hence there is always the possibility of imposed grammars, that is, of grammars that are adhered to in order to avoid repressions and not because they feel as though they 'make sense'. However, there is no clear boundary between such imposed (elements of) grammars and what could be called 'natural' grammars, since every grammar is to some extent imposed due to the inherently forceful character of every political decision. The mere fact of eliminating options not selected presupposes a form of force that comes with the threat of violence, even in democracies. This is a *sine qua non* of the modern state, as Max Weber (1984: 33) made very clear. Whether a political decision is felt to be imposed or legitimate thus is a matter of degree and of the extent to which the institutional circumstances that gave rise to it are seen to reflect the will of the people (the spirit of democracy and/or the rule of law, for example). Hence, political decisions always involve the danger of missing the quite small threshold within which they are able to effectively incorporate a new element of the political imaginary into political grammar: they might try to impose an impossible element or be seen as lacking legitimacy or both. Such situations open up what I have above called the 'political paradox', which juxtaposes the people and its representatives in a quest for sovereignty. The latter, those who make the decision, will then have to rely on what I have above called 'ontological legitimation' to generate stories that justify the decision and reinforce their authority as legitimate representatives. Examples of decisions that failed to successfully incorporate new elements into political grammar abound in the history of the

modern state since the French Revolution, starting with the imposition of the Revolutionary Calendar in France in 1793 (*cf.* Furet 1995: Ch. 3) which is an example *par excellence* of trying to impose elements of a new political grammar and of the attempt to break with the old ‘bounds of sense’. Similar examples can be found in all sorts of authoritarian and totalitarian regimes since then. The reason why it is more difficult to make out examples of imposed decisions in liberal democracies is not so much that decisions in those regimes are generally more legitimate, but, as we have seen, that liberal democracies are characterised precisely by the fact that they *avoid* making decisions, since they are built on the premises of *epistemic* and not *ontological* legitimacy.

3.4.2. The transformative capacities of ‘choice’

Choice, the agentic operator of the marketplace, has experienced a massive surge in popularity in recent years. As Boström and Klintman (2008: 2) point out, ‘[j]ournalists, religious leaders, teachers, environmental movement campaigners, other policy makers, and debaters have helped to explain how we can contribute to social change through consumer choice. They tell us that it is no longer merely votes that matter; politically and ethically motivated consumer choice in the market arena matters as well’. Indeed, ‘[s]hopping and consumption behaviour are increasingly seen as a public arena of activism and the expression of citizenship’ (Seyfang 2005: 290). Underlying this emergence of the consumer as a political actor is the widespread notion of ‘consumer sovereignty’. Peter Simmons (1995: 149) defines consumer sovereignty as ‘a market ideology which draws an analogy between an individual’s political vote as citizen at the ballot box and her economic “vote” as consumer in the market place’. The notion thus blurs the boundary between public and private (*ibid.*), between what was traditionally seen as the role of the citizen (public participation) and that of the consumer (pursuing private interests).

While advocates of political consumerism argue that it is possible for individuals to consistently transform their beliefs as citizens into actions as consumers, others like Jon Elster (1997: 10) challenge this view as being based on a ‘confusion between the kind of behaviour that is appropriate in the marketplace and that which is appropriate in the forum’. Zaccai (2007: 2, 3) states that notions like ‘sustainable consumption’ are ‘contradictory’ not least because of ‘the somewhat incongruous nature of motivations for limiting consumption in societies where, on the contrary, consumers are encouraged to support economic growth [...]’. Similarly, Simmons cautions that ‘the expression of non market values in consumer practice is constrained by the economic, structural and cultural conditions to which individuals are subject within the institutional context of the market’ (1995: 148). In what follows I will argue that this translation of political values into consumer practice is structurally impeded by the essential differences in the modes of agency the two different expressions of will are subjected to. The former ideally aims at collective decisions whereas the latter aims at individual choice. As Elster points out, ‘[t]he notion of consumer sovereignty is acceptable because, and to the extent that, the consumer chooses between courses of action that differ only in the way they affect him. In political choice situations, however, the citizen is asked to express his preference over states that also differ in the way in which they affect other people’ (1997: 10). Thus, no matter how ambitious or idealistic our stances as citizens are, once we act as consumers most of us will have considerable difficulty complying with our own civic ideals.

While, on the one hand, ‘choice’ allows for the structural undecidability between options to prevail, the fact that the options not selected are *not* eliminated from the pool of future selections means that as choosers we are constantly reset to the *status quo ante* after every choice we make. This locks the chooser into a cage of undecidability with every subject

she confronts. No subject can ever be ticked off and filed as done. This constant need to confront undecidability drains the chooser's resources to 'do the right thing', that is, to enact her civic convictions in the marketplace and in everyday behaviour. But what are the concrete mechanisms responsible for this drainage of agentic resources?

First of all, the fact that the discarded options are not eliminated makes the singular choice less relevant for our own lives (since it can be repeated at will); hence, all sorts of situational and affective factors play a much greater role and compete with the more rational and cognitive aspects of the choice at hand: in making our choice, the citizen in us has to compete with our tired body, our exhausted brain, our grumpy mood, our hunger, our sense of aesthetics, our hedonic drive, with the complex marketing mechanisms that try to sway us into buying the 'bad stuff', with our limited funds, with the in-store music, the seductive smell in the air and the persuasive sales-person, etc. Hence, and crucially, the undecidability involved in choice is much tougher to navigate than the one involved in decisions: it is undecidability not so much between more or less rational convictions but between a conviction on the one hand and factors over which we have limited or no *cognitive* control on the other. Hence, to shift the venue of politics from decision-making to choice-making means to systematically weaken our positions as citizens, our power to act upon our deliberations.

In order to understand this problem fully, we have to consult literature from the disciplines of consumer research and psychology. The key concept in the most recent literature on goal-oriented (including ethical or political) consumption is that of 'Self-Regulation' (Baumeister and Heatherton 1996; Vohs and Heatherton 2000; Baumeister 2002; Bruyneel *et al.* 2006). In the field of consumer choice self-regulation arises as a problem precisely

because ‘consumer purchase decisions are influenced by considerations of both affective and cognitive product features. Affective product features furnish fun, pleasure, fantasy and excitement. In contrast, cognitive product features are primarily instrumental, functional and goal-oriented’ (Bruyneel *et al.* 2006: 215). Self-regulation thus consists in the conscious attempt to ‘give sufficient weight to cognitive product features’ (*ibid.*: 216) so that a conscious choice on the basis of internal standards can be made. Hence, ‘when affective considerations exceed cognitive considerations, consumer self-control breaks down’ (*ibid.*). Consumer research suggests that self-regulation in the marketplace is particularly difficult since consumers typically ‘rely on their momentary feelings when they make product evaluations’ (Bosmans and Baumgartner 2005: 102).

Self-regulation is commonly conceived as a ‘limited resource’ or ‘strength’ in persons. Thus, ‘[a]s a limited resource, self-regulatory strength can be temporarily depleted. At any given time, a given person will only be able to regulate so much of his or her behaviour, and so when strength is depleted by demands in one sphere, self-regulatory breakdowns may occur in others’ (Baumeister and Heatherton 1996: 3). Several sources of self-regulatory resource-depletion are suggested in relevant literature. For example, ‘when individuals are motivated by multiple goals, the pursuit of the initial goal [...] in an initial choice may liberate the individual to pursue unrelated or even conflicting goals in subsequent choices’ (Chernev and Kivetz 2005: 82; *cf.* Baumeister 2002: 671). In other words, pursuing our civic conviction in one choice might liberate us to yield to our more spontaneous urges in the next operation of choice. Furthermore, it is possible that a person is not only a ‘political consumer’ but also wants to lose weight, save money, quit drinking or be more accepted by their peers by dressing more fashionably. These are all goals that compete for cognitive attention when facing choice. It is quite likely, then, that a person

will not be able to establish a strict hierarchy among these goals but sometimes have success in pursuing one of them while neglecting others. We might successfully buy low-fat food, for example, but then fail to buy organic and fair-trade: or we might favour our goal of saving money by refraining from buying the more expensive environmentally-friendly and fair-trade alternatives. Moreover, Bruyneel *et al.* found that ‘repeated choice depletes self-control resource strength, in that repeated choosing renders consumers vulnerable to the temptation of emotionally laden product features’ (2006: 215). In three empirical studies they have shown that every act of choice, that is, every passage through the terrain of undecidability in a highly situational and affective context, depletes a person’s self-regulatory resource so that the resistance to affective product features and to the situational circumstances falters progressively the more choices are made within a certain time span. We might buy the more expensive fair-trade bananas at the beginning of our visit to the supermarket but are likely to end up buying an environmentally disastrous detergent or non-fair-trade chocolate near the end. Baumeister *et al.* (1996: 13) also suggest that ‘an initial and seemingly minor breakdown in self-control may set off other causes and factors that prevent the reassertion of self-control and cause the breakdown to snowball’. Ultimately, Bettman *et al.* argue that ‘people often do not have well-defined preferences; instead, they may construct them on the spot when needed, such as when they must make a choice.’ (1998: 188). Our preference to eat meat may arise spontaneously when we stand in front of the meat aisle and the weather is ideal for barbeques. We might also feel a rationally defensible need to treat ourselves to a plane trip to see relatives when coming across the latest *easyjet* offer (I might, for example, convince myself by reasoning that the plane would fly with or without me and that my single choice to abstain from flying would only have symbolic meaning).

Another factor that stands in the way of consistent political consumerism is that as a consumer, I am almost completely cut off from any feedback from my actions in the market and thus in the world. I have to *believe* that spending a third more on food than other people is worthwhile because the organic alternative is the *right* one. I have to believe that my choice to spend a small fortune on a train fare when I could have a plane ticket for a third of the price is not a futile act of heroism but has some minimal effect on the climate. In the case of political consumerism, the reward for my conscious choice is thus mainly of *moral* nature – I choose in a certain way because I believe it is the morally right thing to do, no matter how effective my action is. In Kantian terms, the decisive criterion is that I shall be able to will that the maxim of my action ‘should become a universal law’ (Kant 1993 [1785]: 30). Hence, I shall act *as if* following a law that I find suitable to be universalised. Acting as a political consumer means being restricted to that ‘*as if*’, to that hypothetical assumption; it means precisely *not* being able to make one’s maxim of action a general law. It therefore means that *political* consumerism is a contradiction in terms since consumerism relegates agency to the individual level where no collective decisions can be taken. I can therefore only be an *ethical* consumer – trusting that my action is morally right, but not a *political* consumer.

This ethical solipsism, however, opens the door for frustrations of all kinds: knowing that everyone else is taking the cheap flight, it might feel foolish to take the expensive train; knowing that everyone else expands their material wellbeing, it might feel foolish to restrain oneself. Most of all, however, the isolated ethical consumer might easily get frustrated when media tell her constantly that her efforts seem to be in vein: the various ecological crises intensify, and so do most social conflicts and crises. Recent research shows that ‘[s]o far there is no evidence that growth of global materials use is slowing

down or might eventually decline’ and indicates ‘that an increase in material productivity is a general feature of economic development’ (Kraussmann *et al.* 2009: 2696). The ethical consumer is, like everyone else, embedded in a culture of economic growth and ‘[t]he prevailing vision of prosperity [is] a continually expanding economic paradise’, as Tim Jackson (2009: 35) notes. Within this paradigm it is little wonder that most consumers tend to incorporate a little bit of ethical ‘well-being’ into their daily routines while remaining geared towards increasing their material prosperity and hence their socio-ecological footprint.

There are ways, however, of dealing with these structural agentic problems at the heart of the phenomenon ‘choice’, ways of coping with the problem of self-regulation and perpetual undecidability. Economist and Nobel laureate Thomas Schelling, for instance, has explored the phenomenon of self-binding tactics as a way for the individual to exert will-power over herself in situations of choice:

Many of us have little tricks we play on ourselves to make us do the things we ought to do or to keep us from the things we have foresworn. We place the alarm clock across the room so we cannot turn it off without getting out of bed. We put things out of sight or out of reach for the moment of temptation. (Schelling 1984: 58)

Hence, individuals sometimes try to take measures not to depend on their spontaneous choice, knowing that perpetual undecidability is not always a good thing and that sometimes it is useful indeed to eliminate some of the options in a moment of clear-headedness and resolve. In his book *Passions and Constraint* (1995), liberal theorist Stephen Holmes uses Schelling’s example and turns it into a political argument:

To achieve his desired ends despite his melting resolve, an individual must restrict his available options. A voter, for example, can support compulsory seat-belt legislation in order to force himself to be free, that is, to do what he

really wants to do but would not otherwise be able to do because of laziness, habit, absent-mindedness, or social pressures to appear free and easy. (Holmes 1995: 173)

Indeed, the idea of collective self-binding to a set of basic rules and rights lies at the core of every liberal constitution. So if the idea that ‘Peter drunk’ can be pre-committed by ‘Peter sober’, as Holmes puts it (*ibid.*: 135), is part of liberalism’s core tenets, why can it not be extended to such vital areas as how our societies organise their social metabolism? Why, that is, are matters that most of us would agree are vital for the future of our societies and our planet, left to Peter drunk, to Peter shopping, to Peter lazy, to Peter tired? Why do we not get the chance to decide upon such crucial matters in the forum of politics and public debate, as ‘Peters sober and rational’? It is a fair assumption that in many cases the same individual who as a consumer buys cheap flights for convenience as a citizen would support a bill that bans short-haul flights or introduces high taxes on airplane fuel; that the same person who buys organic food only occasionally would willingly support a law that aims at turning the whole agricultural system more sustainable; that the same person who has been too lazy in the past to switch to a ‘green’ energy supplier would be in favour of a law that gradually makes all energy ‘green’, etc. It is thus a fair assumption that many citizens would be happy if they were no longer forced to exercise their citizenship at such inappropriate a venue as the marketplace. In Chapter 6, I will therefore discuss a democratic innovation that might allow for such decisions to be made in a collective and democratic manner without weakening liberal democracy’s epistemic structure.

In conclusion, it is now time to analyse the transformative capacities of the agentic operator ‘choice’ in more formal terms. When transformation means the grammatical enabling of semi-possible elements of the political imaginary by allowing for the ruptures of events, what role does choice play in that process? The answer must be that its role is

limited. On the one hand, the undecidability at work in choice opens up some form of communication between the 'possible', that is, between grammar itself, and the intelligible-but impossible. Fair trade and organic agriculture, for example, are concepts that have established themselves within the political imaginary as possibilities, as realities; however, their instantiation as the new norm of society is something that is strictly impossible in contemporary liberal-democratic grammar. Choice therefore has the potential to open up new avenues of thought and to introduce new concepts to societal reality; it has the capacity to test the viability of concepts, to prepare ideas for their wider application. However, the fact that choice does not eliminate the options not chosen means that on its own it has no power to create or initiate events that might cause the ruptures necessary for the incorporation of a semi-possible element. Hence, the function of choice in transformation lies mainly in the mobilisation of intelligible-but-impossible elements: it makes them move closer to grammar or move away from it. What choice can do is make an impossible element semi-possible (as in the case of organic agriculture, I suppose), that is, increase a concept's popularity, make it fit for reality and test its strengths and weaknesses. In that sense, choice is an important and powerful agentic operator. However (and this will be discussed in more detail in the concluding Chapter 6), on its own, it has no power to transgress grammar, to push an element into grammar's field of force and make it mutate. Choice is like a ghost: in not being able to eliminate options, it cannot materialise, it cannot touch anything; it is locked into itself. What is more, choice neglects all elements that cannot be applied to the market or to individual behaviour. Thus, if the realm of intelligible-but-impossible elements is left to the disposal of choice, the effect is a structural under-valuation and under-representation of such elements the market cannot deal with. This means that if the realm of the intelligible-but-impossible is predominantly dealt with by the operator of choice, the political imaginary will be (and in fact is)

structurally impoverished: only such elements that fit the market ideology will have a chance to prosper.

3.4.3. The transformative capacities of ‘solution’

I have defined the agentic properties of ‘solution’ to be that it (a) cancels the options not selected while it (b) does not pass through the field of undecidability. The first property means that some kind of selective process is run, which endows solution with a sort of materiality or substantiality. The second criterion, however, holds back and restrains this substantiality in that it defines that the selection is made strictly within a decidable terrain, that is, within a confined rationality. Central to the agentic operator of solution, I have argued, is therefore its capacity or tendency to translate undecidable matters into decidable ones, that is, to filter those aspects of an undecidable matter which can be presented as ‘problems’ within the operating (hegemonic) rationality. And for every problem there must be a solution.

In the realm of politics, a prime example for the functioning of the agentic mode of solution is the discourse and practice of ‘ecological modernisation’. It was first observed as a phenomenon of environmental reform in Germany by Joseph Huber (1982) and Martin Jänicke (1985) in the early 1980s and was then gradually established as a theory of socio-ecological change in advanced capitalist societies. The concept is based on the underlying idea that ‘economic and environmental goals can be integrated within a framework of industrial modernity’ (Baker 2007: 299). Hence, as Mol and Jänicke (2010: 19) argue, ‘ecological modernization theory [...] does not aim for a fundamentally different organization of the (capitalist) economy. [...] The agenda for state and market change within ecological modernization theory does not move beyond a modern market economy

and a modern welfare state'. It includes 'a reformist trajectory for change, as it does not dissociate itself from a capitalist organization of production and consumption' (*ibid.*: 23). Consequently, the notion of ecological modernisation involves a particular strategy for change that is based primarily on the increase of efficiency in industrial production, and on the application of new, environmentally more benign technologies. As Mol and Jänicke readily admit, '[n]ew technologies that even today meet hostile reactions from the environmental movement, such as genetically modified organisms and nanotechnologies, are [...] key elements of an ecological modernization trajectory' (2010: 20). In addition to the introduction of new technologies, new methods of management and new policy instruments that are based on an improved collaboration between the state, market actors, environmental experts and scientists ('governance') are hoped to contribute to the 'decoupling or delinking of material flows from economic flows' (Mol 2002: 93), i.e., to a form of economic growth that is no longer responsible for further environmental degradation. Hence, the concept of ecological modernisation can indeed be portrayed as a 'belief system' (Fisher *et al.* 2009: 161) revolving around the idea that economic growth and environmental protection can be brought to perfect synergy.

Crucially, as John Dryzek points out, even within the framework of ecological modernization '[c]onscious and coordinated intervention is needed to bring the required changes about. [...] Yet this intervention does not take place in *adversarial* fashion, in terms of government imposition.' (2005: 167, my emphasis). Instead, '[e]cological modernization implies a partnership in which governments, businesses, moderate environmentalists, and scientists cooperate in the restructuring of the capitalist political economy along more environmentally friendly lines' (*ibid.*: 170). Crucially, according to Dryzek, '[n]o tough choices need to be made between economic growth and environmental

protection, or between the present and the long-term future' (*ibid.*: 172). In other words, ecological modernization minimises or even eliminates the ideological *undecidability* inherent to ecological politics; it does not pit the prevalent capitalist political and economic rationality against an alternate worldview, but *integrates* aspects of the latter into the former, so that what would otherwise be systemic incompatibilities now appear as rational problems *within* a closed systemic rationality. Thus, when Mol and Jänicke write that at the heart of ecological modernisation theory lies 'the insight that environmental (or ecological) interests, representations and ideas move to the fore in modernization processes' (2010: 23), they describe this process of selective integration of aspects of an 'ecological rationality' (*ibid.*). Dryzek offers an apt illustration of the phenomenon: 'California has long pursued a policy of forcing technical changes to car engines in order to reduce emissions. However, total emissions continue to rise because the benefits of these changes are more than offset by increases in the number of cars on the road and average per-year distance travelled' (2005: 174). Hence, the ecological modernisation approach has isolated the element 'exhaust fumes' from the politically and ideologically complex issue 'mobility' and subjected it to technological innovation. This approach – which has been applied not only in California but to varying degrees in many advanced industrialised countries around the globe – was successful in reducing emissions per kilometre per car but neglected the wider *problématique* of modern mobility that is deeply embedded in the modern (capitalist) way of life. Tackling this underlying problem would of course raise a range of essentially *undecidable* issues concerning the use of private cars and concerning urban planning – such issues could not be resolved within *one* form of rationality but would require decisions between policy suggestions from *different* rationalities. Hence, Susan Baker has a valid point in her assessment that 'ecological modernisation *as a strategy of reform* offers distinctive advantages to advanced industrial society. It offers the

hope that the environmental *problématique* can be remedied without having to redirect the course of societal development' (2007: 300). In that it 'promises the continuity of modernity, with its principles of growth, profit and consumerist views of human welfare [...] the strategy of ecological modernisation attempts to pre-empt any fundamental ideological conflict over modernity' (*ibid.*: 301).

The example of ecological modernisation shows that the transformative potential of 'solutions' is strictly limited by the hegemonic rationality. In a sense, solutions inhibit transformative processes to some extent in that they 'unpack' undecidable matters and direct all attention to those aspects of such matters that can be *redefined* as problems within hegemonic rationality. In that process, the hitherto undecidable matter loses its discursive integrity and relevance as an 'element' in the political imaginary; it is split in a 'decidable' part which is taken care of by solutions and the 'undecidable' rest that is relegated back to the public sphere as 'unrealistic' and grammatically 'impossible'. That undecidable rest will then resume a position much farther away from the 'possible' core of grammar than was the case before the original element was filleted by the agentic mode of 'solution'.

The capacity of the agentic mode of solution to dissect larger undecidable elements into their decidable and undecidable aspects thus has two separate but related effects within the logic of transformation: firstly, it *shields* political grammar from intelligible-but-impossible elements in that it dissects or disintegrates them; hence, it makes it difficult for such elements to become semi-possible. Secondly, and importantly, the agentic mode of solution vouchsafes priority to such *events* that occur within the realm of the 'possible', that is, within the core of grammar. Such events are, for example, technological inventions

and scientific innovations. The appearance of new technologies is a *source* of new solutions, which in itself makes them at least *semi-possible* even before the test of public approval. Since the political grammar of liberal democracy (and of capitalism more generally) is predicated on the idea of technological progress and innovation, new elements emerging from within this field are automatically prioritised, since they are *per se* solutions.

In conclusion, it is important to note that the agentic mode of solution, although it neglects or even rejects undecidability, has a very important role to play in the overall logic of liberal-democratic transformation: it safeguards the priority of such events and elements that emerge *within* existing grammar and thus caters for a very *specific* form of transformation, one that systems-theory refers to as *autopoiesis* (e.g. Luhmann 1986), as a more or less autonomous technological evolution of capitalist society. Solutions *do* eliminate the options not chosen, and these options are always the *undecidable* ones. Hence, solution *is* a powerful operator in terms of transformation in that it builds a barrier between existing grammar and potential sources of rupture. The agentic mode of solution takes care that the prevalent rationality remains as undisturbed and free of ruptures as possible; the stronger the power of ‘solution’ within an agentic regime, the better the existing grammar is protected from external threats by semi-possible or impossible elements.

3.5. ‘Agentic deadlock’ and the simulation of change

Different political regimes, I argue, can be characterised by the differences in organising the deployment and interaction of the agentic operators. If one had to define one single characteristic by which to identify the agentic regime of liberal democracy, then, it would

be the conspicuous under-representation of the agentic operator 'decision'. As this Chapter has shown, liberal democracies shun decisions due to their reliance on epistemic legitimacy as their organising principle. Decisions generate accountability for resulting realities and thus attract the gaze of the represented; they make reality appear as a result of those who decide and not as an independent fact. Hence, decisions are often turned into solutions in that their undecidable elements are cancelled by subjecting them to the rationality of 'science', 'reason' or 'administration'. In many cases, however, the urge for decisions is skilfully deflected into the market and transformed into the mode of choice. Hence, the agentic regime of liberal democracy is dominated by the two operators 'choice' and 'solution', which carry most of the burden of change. Ironically, the presence of the word 'decision' still seems to figure prominently in the public self-representation of liberal democracies and both, choices and solutions are often misrepresented to be decisions.

The agentic regime of liberal democracy, dominated by only two of the three agentic operators as it is, features some peculiar characteristics with regard to transformation: most strikingly, the core of political grammar, the 'realm of the possible', is effectively shielded against the rest of the political imaginary. There is only very little exchange and not much activity at the very boundary between the possible and the impossible (due to the lack of decisions). On the other hand, we have a relatively lively zone in the political imaginary that covers the realm of the intelligible-but-impossible. There is a lot of discourse and exchange going on in this zone due to a lively public sphere and powerful means of communication. It is conspicuous, however, that these two distinct zones of the political imaginary are virtually separated from each other and revolve around their own elements. What is conspicuously lacking is a vibrant exchange between the core of political grammar and the intelligible elements that are disabled by it. Change is thus reduced primarily to an

autopoietic transformation of the ‘possible’ from within its own bounds: new technologies and economic facts are the *events* that introduce new standards as *elements* that need to be incorporated into grammar. Grammar thus nurses and feeds itself by the products of its own rationality. It is relatively immune to influences from outside due to the lack and force of decisions. Transformation thus appears as evolution and becomes a self-referential process.

The realm of the intelligible-but-impossible that is the genuine domain of the public sphere, on the other hand, is relatively isolated in terms of its impact on grammar. If actors in this domain want to be *influential*, they need to operate in the mode of solution and thus leave the potentially disruptive aspects of their agency behind: they need to operate strictly *within* the bounds of grammar. This is the core, I argue, of the often-felt frustration among civil society actors and of the conspicuous fact that so many political proposals are symbolically supported by both the public and its elites, yet at the same time they are clearly impossible as realistic options for political action. Take as an example the influential and widely supported Brundtland-formulation of the term ‘sustainable development’: taken seriously it would mean a transformation of the capitalist system beyond recognition – a transformation the agentic regime of liberal democracy clearly does not allow for. Hence, when one compellingly *intelligible* building block of the definition reads that ‘sustainable global development requires that those who are more affluent adopt life-styles within the planet’s ecological means’ and another that ‘economies remain firmly attached to their ecological roots’ (WCED 1987, cited in Baker 2007: 302), the actual consequences for liberal-democratic societies would be dramatic. The epistemic structure of liberal democracy clearly does not allow for such radical change to be implemented politically; hence, the agentic regime makes sure that agency for change is carried out in

the modes of choice and solution, which leaves the epistemic structure untouched while at the same time affording only such change that can be perceived as coming out of such opaque realms as ‘society’ or the ‘economy’ and thus not from any transparent structure of legitimate power. ‘Sustainable development’ is thus bound to remain a very influential discourse in the public sphere while its chances of being implemented at any relevant scale will remain extremely slim.

This is what I want to call the ‘agentic deadlock’ in liberal democracy: the absence of the agentic operator of decision disconnects vast sections of the political imaginary from the core of political grammar and leads to a certain ‘politics of two worlds’ – one world in which what is *possible* is busily taken care of by managers, bureaucrats and scientists; and the other world in which civil society actors deal with the *intelligible* visions and proposals for change. The notion that what is intelligible could be *made* possible by human will and action, however, seems to be absent. *Figure 3.4* visualises the agentic deadlock in liberal democracy:

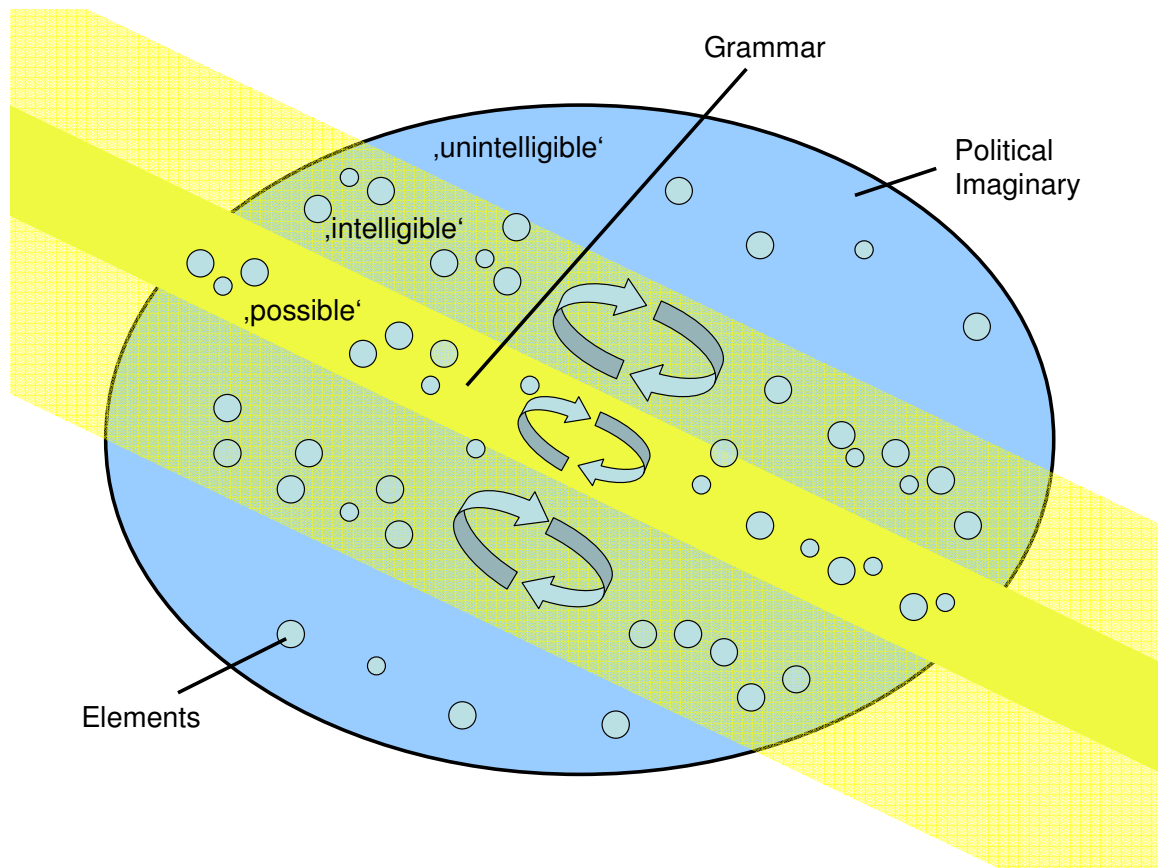


Figure 3.4: Agentic deadlock in liberal democracy

By inhibiting the *circulation* of elements between the intelligible and the possible the agentic deadlock in liberal democracy suppresses the enormous transformative and innovative potential of inviting *divergent* rationalities to compete for chances to contribute to societal change. Agentic deadlock is therefore the root-cause of the system's inability to proactively confront a range of deep societal crises (like the ecological crisis and the impending energy crisis) and of its quite general future-blindness. Under late-modern conditions it leads to what has been described as a *politics of simulation* (Blühdorn 2002; 2004; 2007), by which the will for societal change is honestly articulated in the public sphere while the main thrust of systemic energies keeps being directed towards sustaining the *status quo* and hence that which 'is known to be unsustainable' (Blühdorn 2007: 253). Thus, the 'performance of seriousness' (*ibid.*: 267) in the public domain is not followed by

any decisive action. While, however, Blühdorn offers a convincing description of the phenomenon at hand, his account lacks in explanatory power. According to him, late-modern societies have lost the will to seriously change their world due to a general ‘exhaustion of the critical paradigm’ (*ibid.*: 260) and the ‘silent counter-revolution’ of neo-materialism (*ibid.*). Just why a society which has lost its critical and emancipatory ambitions should have an interest in simulating them remains unclear.

At this point, I maintain, my model of ‘agentic deadlock’ is able to fill the explanatory gap. Its advantage rests in its ability to explain the simultaneity in large parts of society of an authentic will for change and the notorious incapability to implement it. We have encountered, in this Chapter, the citizen whose enthusiasm for change is delegated to the market where it leaves but the slightest trace of change; we have also encountered the civil society actors whose quest for political influence forces them to transform their demands for decisions into proposals for solutions that transform disruptive political agency into smooth and ineffective contributions to modernisation. I have argued, further, that the resulting agentic deadlock means that the political imaginary becomes increasingly shallow and empty: in a world where it is more or less futile to invest energy into political ideas that are not entirely enabled by existing political grammar, only few people will bother doing it. The result is a certain ‘mainstreaming’ of political energy into the core of existing grammar, which leads to the marginalisation and eventual disappearance from public discourse of such proposals that are not entirely covered by grammar. People who might under different circumstances invest their energy in political activism and participation thus consider their time better spent at home and in their private lives. When what is intelligible is not possible, there is not much incentive left to engage with politics. A negative feedback-loop ensues that leads to a further depletion of the political imaginary of

viable demands and visions. The public sphere is now split into civic ‘administrators’ who have found a professional calling in contributing to the generation of ‘solutions’ and who attract most communicative and political resources, and in the marginalised rest of those who still cling to more radical visions for change. Consequently, the zone of the ‘intelligible-but-impossible’ elements is being systematically impoverished and society starts to forget that there are alternatives to the existing grammar, that ‘another world’ might indeed be ‘possible’.

It is important to understand that the agentic deadlock I am describing here is the result of functional necessities that govern liberal democracy as a complex system that relies on both epistemic and ontological means of legitimation. The system’s stability is primarily dependent on its epistemic legitimacy, as I argued in Chapter 1. A very effective way to enhance the epistemic legitimacy of a regime, I argued in this Chapter, is for governments to employ modes of agency that do not strain the epistemic bond between themselves and the public sphere. The epistemic bond is strong when societal reality is perceived by the public largely to be ‘objective’, that is, to be created externally of the precarious relation between the state and the people; it is weak when reality is perceived to be the product of government (in which case the bond has to be recreated by ontological means). Incumbents of liberal democratic governments and leading functionaries in liberal democratic state bureaucracies know that it is detrimental to their own position if reality is perceived by the public to be the product of their doing, as this would make them directly accountable for an abundance of social and economic phenomena they can in fact not control. The only exception to this rule is the case of profound economic and social crisis (i.e. when the independent source of reality has stopped producing social objectivity), where politicians have no other choice than to transparently recreate the basic structures of societal reality –

in which case being held accountable for the ensuing reality might mean to gain power. But it is important to note that in every case of a loss of opacity the epistemic bond is getting strained or torn and needs to be actively recreated ontologically – which on the long run undermines the stability of the system.

The more economically, technologically and politically complex advanced capitalist societies get the more risk is involved for incumbents to be perceived accountable for societal reality as such: minor interventions into one of the subsystems might have major unforeseeable consequences on a systemic level that are difficult to control. Being perceived as a responsible manager of an ‘independently given’ reality is therefore the more rational choice for political actors than being perceived as its creator. This is especially true when political action leads to higher prices or lower income for significant parts of society: if those effects are generated ‘objectively’ by the market, they will be accepted more easily by the public than if they are generated ‘subjectively’ by politicians (for example in an attempt to curb the consumption of fossil fuels).

Political agency in liberal democratic regimes is thus indeed guided by a form of functional necessity: in cases where the effects of action are likely not to be perceived as overwhelmingly positive, political actors tend either to employ a mode of agency that presents the issue at stake and the proposed way forward as entirely ‘objective’ (a ‘problem’ to which a ‘solution’ is sought) or to deflect entire issues to the market as a sphere of social coordination outside institutional politics and thus to the mode of ‘choice’. This does not mean, of course, that political actors are not in principle free to choose how to act, but the structural properties of the system within which they act predetermine their

actions to a large extent: being held responsible for a high petrol price, for example, simply is politically inconvenient.

The agentic regime of liberal democracy is therefore structurally linked to the all-important epistemic mode of legitimation. Within this regime, much depends upon how reality is perceived: are the facts surrounding us 'objective' or 'subjective' – that is, are they the result of some quasi-natural process of emanation, or of fallible human creation? And what is the role of our representatives: are they the managers of a reality they are equally subjected to, or are they the creators of a reality only we (the represented) are subjected to? This latter question decides whether we perceive our representatives as 'part of us' or as superiors who have appropriated our sovereignty. Doing politics within this system therefore has much to do with 'staging' reality: since much depends on how reality is perceived by the public, politicians need to make sure to apply modes of agency that do not jeopardise the perceived 'objectivity' of the reality they manage. Taking on too much responsibility could easily destabilise an entire political system and end a promising career.

Part II: Democratic Theory and Political Agency

The first part of this thesis was dedicated to the development of a conceptual framework within which the limits to societal change in liberal democracies can be explored and analysed. The aim of Part Two is to relate this framework to some of the most influential currents in contemporary democratic theory and to scrutinise their own theorisation of political agency. The three strands of theory I have chosen are aggregative, deliberative and radical democracy. They all offer different prescriptions as to how political agency and societal change should be instituted in democratic societies, and, as I will argue, each of them can be shown to (implicitly or explicitly) favour one of the three agentic operators I introduced in Chapter 3. While aggregative theories of democracy take ‘choice’ as their central analytical concept deliberative democrats prefer rational ‘solutions’ and radical democrats rely on the disruptive power of ‘decisions’. These inclinations, as I will further show, have important implications for the forms and trajectories of societal change each theory would engender if they were fully implemented in contemporary democratic societies. The purpose of this exercise is thus to elucidate the agentic limitations of most contemporary democratic theory and to argue for a need to address these limitations.

As will be seen, I dedicate more space to radical democracy than to aggregative and deliberative democracy. This is for the simple reason that I have identified the agentic operator ‘decision’ to be the one that is most elaborately ‘blocked’ within the agentic regime of liberal democracy and also that which has the most transformative potential of all operators. Radical democratic theory, which is very much in favour of ‘decisions’, thus appears as the most attractive candidate to break open the agentic deadlock in liberal democracy and thus was awarded more space. As my analysis will show, however, these

hopes are partially ill-founded due to a lack of attention to the epistemic requirements of modern democratic legitimacy and an over-emphasis of the concept of hegemony in radical democracy. An attempt to mend these shortcomings will be made in the third and final part of the thesis.

Chapter 4: Aggregative and Deliberative Democracy and Political Agency

4.1. Aggregative democratic theory

The second half of the twentieth century was arguably dominated – at least in the Anglo-American world – by an understanding of democracy that is known as the ‘aggregative model’ (Mouffe 2000: 81). This model is based on the assumption that in modern mass societies it is impossible to discern a ‘general will’ of the people and that therefore the idea of ‘popular sovereignty’ has become an inadequate starting point for democratic theory. Instead, democracy should be conceived as a *method* to aggregate individual preferences by way of periodic elections which endow political leaders with the authority to rule the polity. Democratic politics, according to this understanding, is the competition for votes amongst parties in order to gain the authority to rule. The people’s power rests in their ‘right periodically to choose and authorize governments to act on their behalf’ (Held 2006: 142).

This view was first introduced by Austrian economist Joseph Schumpeter in his seminal work *Capitalism, Socialism and Democracy* in 1943, where he defines ‘the democratic method’ to be ‘that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote’ (Schumpeter 2010 [1943]: 241). The important consequence of this is that

democracy does not mean and cannot mean that the people actually rule in any obvious sense of the terms “people” and “rule.” Democracy means only that the people have the opportunity of accepting or refusing the men [sic] who are to rule them. [...] Now one aspect of this may be expressed by saying that democracy is the rule of the politician. (*ibid*: 253)

Schumpeter's aggregative understanding of democracy as a market-like competition for votes was soon taken up by scholars in North America (most notably, Anthony Downs [1957], Gordon Tullock [1976; 1989], James Buchanan [1975; 1979], Kenneth Arrow [1951] and William Riker [1962; 1982]) who started to apply the methodology of economics to the study of politics in an attempt to establish a formal science of politics (*cf.* Cunningham 2002: 102). The resulting school of thought came to be variably known as 'rational', 'public' or 'social' choice theory. Although there is no commonly agreed demarcation line between these terms, public choice tends to refer to the analysis of existing political institutions, while social choice theory is concerned with the more fundamental question whether a democratic aggregation of preferences is at all possible. Both strands are usually subsumed under the more general heading of 'rational choice theory' and apply the same methodology (*cf.* Hindmoor 2006).

The overall objective of rational choice theory is to develop a 'coherent and unified theoretical view of politics and economics' (Alt and Shepsle 1990: 1) or, as Ordeshook (1993: 76) put it, to achieve a 'reintegration of politics and economics under a common paradigm and deductive structure'. Hence, as Dennis Mueller points out,

Public [or rational or social D.H.] choice can be defined as the economic study of nonmarket decision making, or simply the application of economics to political science. The subject matter of public choice is the same as that of political science: the theory of the state, voting rules, voter behaviour, party politics, the bureaucracy, and so on. The methodology of public choice is that of economics, however. The basic behavioural postulate of public choice, as for economics, is that man is an egoistic, rational, utility maximizer. (Mueller 2003: 1-2)

Accordingly, rational choice theorists invariably assume that 'the representative or the average individual acts on the basis of the same over-all value scale when he [sic] participates in market activity and in political activity' (Buchanan and Tullock 1962: 20).

Tullock later expressed this view even more sharply: ‘Voters and customers are essentially the same people. Mr. Smith buys and votes; he is the same man in the supermarket and in the voting booth’ (1976: 5; cited in Green and Shapiro 1994: 1). This claim, importantly, defines ‘choice’ to be the analytic nucleus and therefore the all-important agentic operator for aggregative democratic theorists. Any conceptual difference between the consumer and the citizen is denied. Rational choice theorists would therefore fiercely reject my claim in Chapter 3 that it is important to distinguish between different *modes* of agency that can be active in the same person, depending on the setting and circumstances of the regarding action.

For the purpose of this Chapter I want to focus my attention on the strand of social choice theory, since it deals with the question of aggregation as the ‘method’ of democracy on the most fundamental level. It asks whether it is possible to ‘aggregate the preferences of individual voters in such a way as to generate a fair and accurate decision or “social choice”’ (Hindmoor 2006: 79). This question contains a *normative* and a *logical* aspect. ‘The normative aspect is the specification of minimal conditions an acceptable aggregation mechanism must satisfy. The logical aspect is the identification of the class of logically possible aggregation mechanisms satisfying a given set of conditions’ (Dryzek and List 2003: 3). Unsurprisingly, social choice theorists invariably arrive at a negative answer to that question: the very birth of social choice theory was marked by the sweeping success of Kenneth Arrow’s (1951) so-called ‘impossibility-theorem’ – the claim that it is logically impossible to aggregate individuals’ preferences in an unambiguous and consistent way into a single ‘social choice’.

In his book *Social Choice and Individual Values* (1951), Arrow defines a set of six ‘natural conditions’ the aggregation of individual preference patterns is required to satisfy in order to qualify as democratic (*cf.* Hindmoor 2006: 83-4). Of these conditions the requirement of ‘unrestricted domain’ and of ‘independence of irrelevant alternatives’, respectively, will be particularly relevant for the present discussion. ‘Unrestricted domain’ means that individuals must be free to rank the available options in any order they want. ‘Independence of irrelevant alternatives’ requires that the social choice between a set of options must not be affected by the existence of or changes in preferences over other infeasible and so irrelevant alternatives (e.g., the choice between proposed transport systems like tramways, automobiles and bicycles must not be affected by the irrelevant introduction of the option ‘teletransportation’). The other conditions defined by Arrow are transitivity, connectivity, citizens’ sovereignty and non-dictatorship.

Arrow’s achievement was to show that all conceivable methods of preference aggregation violate at least one of these conditions and, hence, that it is impossible to arrive at any ‘social choice’ under fair and democratic conditions. Social choice theory, one might say, is an endless variation on this theme. Arrow’s relatively sober analysis was later radicalised and turned into a political creed by the second-most influential social choice theorist, William Riker. In *Liberalism against Populism* (1982), he distinguished two theories of democracy: the ‘populist’ and the ‘liberal’ theory. In populist democracy (which he associates with Rousseau), liberty is obtained ‘by embodying the will of the people in the action of officials’ (Riker 1982: 11), that is, by translating the public will into public policy. ‘In the liberal view’, however, ‘the function of voting is to control officials, *and no more*’ (1982: 9; original emphasis). According to this view, which Riker associates with Madison, the liberating effect of voting is that it gives people the power to remove

incumbent governments from office. Building on Arrow's theorem (and taking up Schumpeter's central theme) Riker then shows that the populist theory of democracy is doomed to failure for the simple reason that it is impossible to identify a popular will: 'Populism as a moral imperative depends on the existence of a popular will discovered by voting. But if voting does not discover or reveal a will, then the moral imperative evaporates because there is nothing to be commanded' (1982: 239). His solution, of course, is to declare the liberal view the victor. For the liberal, 'law is no more than the decree of legislators or judges, accepted and occasionally ratified by the citizens' (*ibid.*: 12). This view arrives at a minimal definition of democracy which assumes that there is no general will, and that law is simply decreed by those in power and that, lastly, voting is no more than the mechanism to put people in and out of power.

4.1.1. Interpreting the aggregative model of democracy

In relating aggregative democratic theory to the theoretical framework I have developed in the previous Chapters, I want to start with the simple observation that aggregative theory analyses liberal democracy 'from within', so to speak. By using the methods of economics to analyse politics it necessarily limits the scope of what can be said about liberal-democratic societies. For example, when social choice theorists like Riker argue for a minimal democracy whose sole purpose is to facilitate a smooth working of the market economy, his argument somehow fails to surprise: it is a little bit like a fox arguing that hens should not be kept in henhouses. The peculiar self-referentiality of rational choice theory's economism becomes apparent in instances such as when Riker and Ordeshook (1973: 78-79) argue that 'society, not being human, cannot have preferences in any proper sense of "have", nor indeed can it order the preferences that it does not have' (quoted in Green and Shapiro 1994: 16). A statement like this only makes sense, of course, when

assuming, as neo-classical economists do, that individuals, being human, *can* have preferences in any proper sense of ‘have’. This, however, is an equally lofty assumption. Nevertheless, rational choice theorists simply assume that individuals have some given and stable preferences and infer from this assumption that while it is possible to ‘reveal’ them in the marketplace, there is no way to aggregate them in any meaningful sense democratically.

It is interesting to see, however, how Schumpeter’s and Riker’s claim that there is no popular will seems to resonate with the argument I developed in Chapter 1. There, I argued that the contents of the popular will are always and necessarily subject to contestation between the ‘people’ and its representatives and that, consequently, the very status of ‘sovereignty’ remains ambiguous. I called this phenomenon, with reference to Honig and Ricoeur, the ‘paradox of politics’. Now, Riker swiftly jumps to the conclusion that when there is no identifiable popular will, we have to abandon the concept and must instead embrace the idea of a minimalist democracy in which law is independent from any popular will. While this idea has some purchase within the liberal tradition, where law can be derived from reason and does not need to be democratically sanctioned, it begs the question of whether such a minimal democracy would be considered legitimate by its members and whether it could endure. Contrary to Riker, I believe that every modern (secular) political community (which has popular sovereignty as its starting point) necessarily needs to operate on the basis of some conception of a popular will³². Without that, its law would have to be derived entirely from transcendental sources (i.e. some form of God). While the conception of popular sovereignty (and therefore the rule of a popular will) in its pure form evokes the political paradox and leads to instability and an infinite

³² On the indispensability of the concept of the ‘common will’ in democracy see, for example, Mackie (2009).

regress in the quest for effective sovereignty, capitalist society has discovered a way to ‘suspend’ or ‘bridge’ that paradox: it used the emerging market economy to function as its ‘independent source of reality’, that is, as a common point of reference for both the ‘people’ and its representatives. That way, the dispute is suspended and both sides focus on managing a reality they both accept as given. That, however, does not mean that modern societies could survive without an operational notion of a popular will. The conundrum at the heart of liberal democracy is that while it needs some workable notion of a popular will to remain legitimate and thus stable, it equally needs something to *distract* the sovereign people from cannibalising itself over its positive and material meaning. This ‘something’ is a free (opaque) and industrialised market economy.

The advantage of my interpretation of liberal democracy is that it is in a position to analyse the systemic function of the market economy within the wider context of modern society and to explain liberal democracy’s long-term stability. The social choice perspective, on the other hand, can only state that there is no popular will and that therefore the market is the only game in town. This position is analytically myopic and therefore disappointing.

As a result of rational choice theory’s self-restriction to the methodology of economics, it does not offer any original perspectives on the subject of societal change or transformation, either. The forces that drive society are the forces that drive the market: self-interest and instrumental rationality. Consumers are utility-maximisers, entrepreneurs are profit-maximisers, bureaucrats are budget-maximisers (Niskanen 1971), and politicians are office-seekers (Downs 1957: 28). Whatever change occurs in society must be an effect of whatever variables interact with these constants (the variables being innovations, changed preference-orderings, etc.). More recently, however, the emergent school of rational choice

institutionalism (*e.g.* Ostrom 1990) concedes that the strategic calculus of actors is influenced by the institutions structuring the field. This, as Toke (2000: 46) argues, leads away from the pure ‘calculus’ approach of rational choice theory towards a ‘cultural’ approach that ‘stresses the degree to which behaviour is not fully strategic but bounded by an individual’s worldview ... it emphasises the degree to which individuals turn to established routines or familiar patterns of behaviour to attain their purposes’ (Hall and Taylor 1996: 939; quoted in Toke 2000: 46).

While such a ‘cultural’ approach quickly reaches the limits of rational choice theory’s remit, it nevertheless constitutes an interesting extension of rational choice theory, highlighting its constraints. The following statement from Ostrom (1990: 35) bears a clear semblance to my conception of political grammar and the political imaginary developed in Chapter 2: ‘Norms of behaviour affect the way alternatives are perceived and weighed. For many routine decisions, actions that are considered wrong among a set of individuals interacting together over time will not even be included in the set of strategies contemplated by the individual’ (cited in Toke 2000: 46). Translated into the terminology I developed in Chapter 2, what Ostrom suggests here is that certain strategies of action, while being ‘intelligible’ on a cognitive level, are excluded from the choice of possible actions because a set of deeply ingrained social norms makes them ‘impossible’: they are not even considered because ‘political grammar’ disables them as options.

If we relate this approach to the condition of ‘independence of irrelevant alternatives’ (IIA) as presented by Arrow, we are able to identify some important shortcomings of the rational choice paradigm in terms of its capacity to grasp the complexity of human behaviour and its political implications. According to Arrow, IIA requires that ‘the choice made from any

fixed environment S should be independent of the very existence of alternatives outside of S (Arrow 1951: 26). This requirement is evidently reasonable when applied to election procedures: candidates not on the list should not play a role in the election. The prime example Arrow provides for IIA, accordingly, is the case of a candidate who dies after the votes have been cast. The votes for this candidate, then, obviously must not have any bearing on the final result of the election. It is important to note, furthermore, that the condition of IIA ‘implies that in a generalized sense all methods of social choice are of the type of voting’ (*ibid.*: 27 f.). In other words, social choice theory has difficulty to account for those processes of political decision-making and modes of agency that operate outside the formal procedures of voting.³³ But it is precisely that extra-electoral sphere of politics that might prove at least as relevant to social change as elections and voting: the actions of elected governments and the ways in which political agendas are influenced and set in a polity might be as much or even more relevant than the actual election of governments.

Outside the formal domain of elections, the application of IIA therefore becomes rather more questionable and problematic. While it is a formal requirement of every electoral procedure to come up with a fixed list of alternatives (i.e. candidates) from which to choose, in all political circumstances other than elections the very identification and definition of the alternatives that are to constitute the environment S is a contentious and delicate question. It is the question of agenda-setting and of the definitory power to determine what is politically ‘relevant’ and what is not. Who is to decide, and on what grounds, what alternatives are to constitute the political agenda? And if this agenda is fluid and informal (as is the case in everyday politics) rather than fixed and formal (as in elections), what does it mean for an alternative to be ‘irrelevant’? What I am arguing here

³³ Arrow starts his book with the following observation: “In a capitalist democracy there are essentially two methods by which social choices can be made: voting, typically used to make “political” decisions, and the market mechanism, typically used to make “economic” decisions’ (Arrow 1951: 1).

is that in political contexts other than elections the definition of a choice set (or ‘environment’) necessarily involves the (forceful) act of separating ‘possible’ from merely ‘intelligible’ alternatives and that this act is based on grammatical rules that are themselves not ‘rational’ but constituted, among other things, by historical power relations and the resulting cumulative effects of discursive frames.

But even if we imagine the case that voters were asked to set the agenda democratically by ranking their preferences for a set of policy options (and let us further assume that this set was established as democratically as possible by methods of deliberative polling³⁴), the assumption that changes in the choice set or alternative options outside the set have no bearing on the original ordering of preferences is not necessarily convincing. Studies in behaviour economics, building for example on the work of Daniel Kahneman, Amos Tversky and Alexander Chernev, show that IIA is often disregarded by real actors. Commonly discussed under the heading of ‘context effects’ these observations refer to ‘changes in the consumer choice process or in its results as a function of the specific composition of the choice set’ (Huang 2012: 281). According to these studies (see, for example, Tversky and Kahneman 1981; Kahneman and Tversky 1984; Tversky and Simonson 1993; Chernev 2005) the addition of new options to a choice set can indeed alter the preference ordering of pre-existing options and the ‘framing’ of the choice set itself can have a bearing on the preference ordering within. Tversky and Kahneman (1981: 457) argue, for example, that ‘the relative attractiveness of options varies when the same decision problem is framed in different ways. Such a discovery will normally lead the decision-maker to reconsider the original preferences, even when there is no simple way to resolve the inconsistency’. Following this argument, we have reason to assume that the

³⁴ See section 4.2 of this Chapter for a discussion of deliberative democracy.

existence of policy options outside the set within which voters are called to rank their preferences can serve to provide different ‘frames’ of the set of options. These frames should, according to IIA, be irrelevant to the preference ordering but it is quite likely that, in political reality, they are not.³⁵

Let me now relate the aggregative model of democracy to the concept of ‘agentic modes’ I devised in Chapter 3. By limiting the study of politics to a narrowly defined form of rationality – that of economics –, aggregative democratic theory deliberately restricts itself to a mathematical methodology of thinking about society. In so doing, it privileges the agentic operator ‘choice’ as the one which is responsible for all change and development in society since it constitutes the nucleus of all aggregation. All undecidability is reduced to differences in individual preferences, which have to be aggregated into a ‘social choice’. A ‘decision’, seen that way, is the aggregate of the individual preferences of self-interested utility-maximisers. This methodological individualism (Hindmoor 2006: 1) strips the concept of ‘decision’ of its collective dimension: individuals do not think ‘as a collective’ and ‘for society’ when passing through the undecidability that precedes every decision, but they are assumed to act strictly as individuals in their own and private capacity. Hence, while aggregative democratic theorists accept the notion of ‘undecidability’ on the level of individual choice, they insist that the transition from the individual to the collective level (the aggregate) is entirely calculable as a logical derivative of the individual level. As books like *The Calculus of Consent* (Buchanan and Tullock 1962) suggest there is no undecidability in the social. At the same time, as we have seen, social choice theorists usually argue that it is impossible to arrive at genuinely ‘democratic’ social choices, which

³⁵ Armatya Sen (1984) offers a more formal critique of IIA by referring to the example of someone who always picks the next-to-largest piece of cake: in a choice of two pieces, she will pick the smaller one, but if a third and largest piece is added, she will now pick the formerly largest one (for a critical discussion see Neumann 2007).

informs their position that the role of collectively binding social choices (i.e. democratic decisions) should be limited as much as possible and the main thrust of agency should be relegated to the private sphere and to the market.

By way of conclusion, let me take issue with this main tenet of aggregative democratic theory that the social is simply the aggregate of individual choices by restating my argument within the framework of social choice theory that the individual can operate in different modes of agency depending on whether s/he acts in a private or 'social' capacity.

In Chapter 3 I argued that since the operation of choice cannot eliminate options, the 'political' dimension gets reduced to an 'ethical' one. There is no 'political consumerism', I argued, but only 'ethical consumerism'. The ethical consumer must abide by the Kantian 'Categorical Imperative', forcing him to act 'as if' the maxim of his actions could be turned into a universal law. Rational choice theorists are right, of course, in assuming that this type of rationality is difficult to sustain consistently. Applying their methodology, one could say that there are 'opportunity costs' involved in abiding by ethical consumerism. Knowing that the 'as if' is a mental construction only, I will experience the conflict between the moral satisfaction my action might give me and the economic and hedonic costs it will incur. Knowing that most of the 'others' defect, I will experience their relative gain in hedonic and economic utility as an opportunity cost of my ethical behaviour.

These opportunity costs, I argue, can only be eliminated by transforming the individual choice into a collective decision: if the decision concerns everyone, the structure within which my behaviour is regulated will change. This is due to two reasons:

(a) The proposed measure (*e.g.* the introduction of a tax on aviation fuel) will have an actual effect (a cut in CO₂ emissions) instead of merely being of ‘moral’ and ‘symbolic’ value.

(b) Since the measure will affect everyone in the political collective and not only me, I do not suffer relative losses of economic or hedonic utility. We all do or no one does.

Hence, it is plausible to assume that an individual’s preference ordering will be different in both instances. As a citizen contributing my ‘vote’ to a collective decision my preference ordering might look like this: moral > economic > hedonic utility. This is due to the above reasons: I know that the decision would have an effect on reality, and I would not suffer any opportunity costs in relation to my fellow citizens. I might vote for the taxation of aviation fuel precisely because this measure would ‘bind’ my will to what I think is best for society. The preference-ordering I would reveal in the market, however, might look like this: hedonic > economic > moral utility.

The question to be asked now is this: which one is my ‘real’ preference-ordering? This question, I argue, cannot be answered within the analytical framework of rational choice theory; in fact, it cannot be answered at all. Arguing that the preferences I reveal in the market place are more ‘real’ than those I would show in the ballot box is as nonsensical as the reverse argument. The point is precisely that both preference orderings are ‘real’ under the circumstances in which they are made: in the mode of decision I might be inclined to add more weight to the collective, societal dimension of the problem whereas in the marketplace I might be inclined to a larger degree to pursue my individual enjoyment and utility. Hence, the simple truth rational choice theory is persistently unable to come to

terms with is that while Mr Smith is indeed ‘the same man in the supermarket and in the voting booth’ (Tullock 1976: 5), he does very different things there.

4.2. Deliberative Democracy

While the aggregative model dominated democratic theory in the Anglo-American world until well into the 1980s, the last decade of the twentieth century saw the rise of a new ‘orthodoxy’ in democratic thought: that of deliberative democratic theory (Smith 2003: 53). This ‘deliberative turn’ (Dryzek 2000: 1) is owed on the one hand to a growing resistance to the dominance of rational choice thinking within democratic theory, and on the other to an increasing awareness of the normative shortcomings of the ‘principal-agent form of representation’ within liberal democracies (Smith 2003: 54), which regards representatives to be the agents of a public that has given and structured preferences. The focus of interest now is no longer on the aggregation of preferences but on the communicative phenomena that lead to their formation and transformation. As Chambers (2003: 308) puts it: ‘Talk-centric democratic theory replaces voting-centric democratic theory’. Or, to use Jon Elster’s words, the new dominant view in democratic theory concerns ‘the idea that democracy revolves around the transformation rather than simply the aggregation of preferences’ (1998: 1). Deliberation can be understood precisely as a type of communication that aims at the possibility of preference-transformation under conditions of unconstrained dialogue among equals. According to John Dryzek (2000: 1), ‘deliberation as a social process is distinguished from other kinds of communication in that deliberators are amenable to changing their judgements, preferences, and views during the course of their interactions, which involve persuasion rather than coercion, manipulation, or deception’. This new interest in communication and preference-transformation is not only analytical in nature, but, more than anything, *normative*.

Deliberative democracy as a normative project involves the idea ‘that legitimate lawmaking issues from the public deliberation of citizens’ (Bohman and Rehg 1997: ix). ‘Under deliberative democracy’, John Dryzek argues in a similar vein, ‘the essence of democratic legitimacy should be sought [...] in the ability of all individuals subject to a collective decision to engage in authentic deliberation about that decision’ (2000: v). But what exactly is ‘authentic’ deliberation? There is no agreement about this question among deliberative theorists beyond reference to its ‘non-coercive’ nature and a general acknowledgement that deliberation involves a commitment to some form of rationality and impartiality (Elster 1998: 8). The difficulties start, however, with trying to agree on a common definition of what the term ‘rationality’ involves. Some theorists take a more ‘proceduralist’ stance here, which means that they believe that as long as certain procedural requirements of deliberation are fulfilled, the outcome must be regarded as *rational*. Others take a more ‘substantivist’ view in arguing that certain arguments and propositions should not be allowed to enter into deliberation, if they violate the very principles on which the idea of deliberation is based, like equality and mutual respect. Rationality, for them, has some substantive contours.

John Dryzek’s account of deliberative democracy, for one, can be located in the proceduralist camp. For him, ‘the only condition for authentic deliberation is [...] the requirement that communication induce reflection upon preferences in non-coercive fashion. This requirement in turn rules out domination via the exercise of power, manipulation, indoctrination, propaganda, deception, expressions of mere self-interest, threats (of the sort that characterize bargaining), and attempts to impose ideological conformity’ (Dryzek 2000: 2). Thus, ‘deliberative’ rationality can be juxtaposed to

‘strategic’ or ‘instrumental’ rationality by defining a set of procedural constraints that enable what Smith (2003: 56) calls ‘unconstrained dialogue’.

The work of Amy Gutmann and Dennis Thompson, on the other hand, is exemplary of the more substantivist account of deliberative democracy. They build on a substantive theory of justice, warning that ‘procedures can produce unjust outcomes (such as discrimination against minorities)’ (2004: 24). Hence, some principles of justice must be regarded as untouchable by procedural outcomes. ‘Unjust outcomes’, they insist, ‘should not be justifiable on any adequate democratic theory’ (*ibid.*). A theory of deliberative democracy that is based on a substantive conception of justice consequently ‘has no problem with asserting that what the majority decides, even after full deliberation, is wrong’ (Gutmann and Thompson 2003: 38). Proceduralists usually reply to such allegations that if the right procedural constraints are put in place in a deliberative process, then unjust outcomes are very unlikely or even impossible, and that consequently a restriction of acceptable deliberative outcomes to those that adhere to some *a priori* standards of justice is not only undemocratic but also unnecessary. The work of Joshua Cohen is a good example for this theoretical position. His version of an ‘ideal deliberative procedure’ (Cohen 1997) is designed to preserve the autonomy of the deliberative democratic association while at the same time guarding against objectionable deliberative outcomes. The main argument of proceduralists like Cohen and Dryzek is that the procedural standards of deliberation foster an orientation towards reasoned agreement amongst deliberators, which encourages them to focus on the common good and to act in the spirit of public reason (*cf.* Dryzek 2000: 168 f.).

This leads us to the second principle that all deliberative theorists seem to embrace in one way or another: that of impartiality. As in the case of rationality, however, there are significant differences as to the degree to which impartiality is seen as essential for the legitimacy of deliberative democratic outcomes. The common ground can be found in notions like ‘public spiritedness’ (Gutmann and Thompson 2004: 10) or ‘enlarged mentality’ (Smith 2003: 60), which deliberators are required to exhibit in order to enable authentic deliberation to emerge. If democratic deliberation is to be more than bargaining or political negotiation, it is argued, deliberators need to consider each others’ arguments in an attitude of openness that brings a shared commitment to the common good to the fore. Deliberators need to think ‘as’ the public and are required to leave their personal interests and backgrounds outside the forum. Graham Smith suggests that for deliberative democracy ‘citizens need to cultivate a particular disposition: internal attitudes of mutual respect and impartiality that allow the development of imagination and empathy’ (2003: 60). Democratic deliberation thus aims at advancing the common good in that the deliberative outcome is more than the sum of the different opinions that have entered the process. Ideally, nobody ‘wins’ a process of deliberation, but all transform their points of view to some degree during the process as a result of learning, mutual respect and empathy, so that the outcome is a genuine product of joint deliberation.

The commitment of deliberative democracy to rationality and impartiality means that the central communicative mechanism in deliberation can be identified as ‘mutual reason-giving’ (Gutmann and Thompson 2003: 35) or ‘justification’ (Chambers 2003: 308). What counts is to provide the fellow deliberators with arguments they can understand and respond to, so that a process of mutual reason-giving can get underway. Most importantly, for an outcome of democratic deliberation to be fully legitimate, it must be justifiable to all

those who are affected by it. ‘A legitimate political order’, Chambers points out, ‘is one that could be *justified* to all those living under its laws’ (*ibid.*; original emphasis). And such justification will only succeed when couched in terms of generalisable arguments (rationality) that are made in the name of the common good and not in that of partial interests (impartiality).

Deliberative democracy’s simultaneous attention to both communicative rationality and democratic autonomy marks it out as a conceptual amalgamation of the liberal insistence on reason and the democratic insistence on popular sovereignty. Its account of legitimacy feeds on both sources at the same time. When Bernard Manin claims that ‘the source of legitimacy is not the predetermined will of individuals, but rather the process of its formation, that is deliberation itself’ (1987: 351-2), he stresses the creative potential and ambition of deliberation: only *after* deliberation can we speak of a common good, or of a legitimate popular will, according to this view. Cohen (1997: 73) makes a similar point when he states that ‘outcomes are democratically legitimate if and only if they could be the object of a free and reasoned agreement among citizens’.

Accordingly, the roots of deliberative democratic theory can be traced back to two quite different sources. As Chambers (2003: 309-10) points out, ‘deliberative democratic theorists for the most part steer a middle ground between rights foundationalism – which sees the will of the People [...] in direct opposition to individual rights [...] – and strong democracy and/or communitarian theory, which sees individual rights [...] as a pernicious impediment to the common good’. Hence, deliberative democratic theory can be described as ‘a rights-friendly theory of robust democracy, with some theorists leaning towards the rights side [like Gutmann and Thompson] while others lean more toward the democracy

side [like Dryzek]' (*ibid.*: 310). Indeed, Gutmann and Thompson attribute the origins of the modern notion of deliberation to an anti-populist discourse that 'was part of a defense of political representation that pointedly resisted appeals to popular opinion' (2003: 8). Bohman and Rehg (1997: ix), by contrast, stress the point that the concept of deliberative democracy is a direct offspring of the idea 'that legitimate government should embody the "will of the people"'. On their account, deliberative democracy 'presents an ideal of political autonomy based on the practical reasoning of citizens' (*ibid.*). The political theorist who stressed this 'co-originality' of both traditions – liberalism (rights) and democracy (sovereignty) – perhaps most emphatically is Jürgen Habermas (1996a; 2001). In his terms, 'private and public autonomy require each other' (Habermas 2001: 767). Habermas' conclusion from the fact that in a *liberal* democracy 'citizens are accorded autonomy in the sense of a *reasonable* will-formation' (Habermas 2001: 767; original emphasis) is a pointedly *deliberative* one: 'They should bind their wills to just those laws they give themselves after achieving a common will through discourse' (*ibid.*).

But how can this ideal of a 'reasonable will-formation' be achieved in practical terms? This question opens up another field of contestation within deliberative democratic theory. Those who defend idealist and abstract accounts of deliberation, like Habermas and Cohen in the proceduralist camp, or John Rawls in the substantivist camp, tend to insist on the ideal of 'consensus' as the ultimate goal of deliberation. Consensus, according to Dryzek, 'is defined as agreement not just on a collective choice, but also on the exact normative grounds for the choice' (2000: 47); it means wanting the same thing *for the same reasons*. In terms of legitimacy, a consensus of course provides the most defensible outcome one could think of. It could even be argued, perhaps, that it provides the *only* defensible outcome of a deliberative process, since everything short of consensus would either mean

that deliberation has been contaminated by bargaining and strategic action at some point along the way (making us want the same thing for *different* reasons) or that deliberation had to be disrupted and preferences (however transformed) aggregated in order to come to some conclusion. Rationalists like Rawls, for example, would not accept such outcomes as deliberative, for they assume ‘that all individuals will reason in the same way, and must ultimately reach the same conclusions. Rawlsian public reason is singular, and produces consensus’ (Dryzek 2000: 15). Others – in particular those who are concerned with the actual implementation of democratic deliberation in the real world of politics – are content with less than consensus as an outcome of deliberative processes (*e.g.* Dryzek 2000; Smith 2003). However, theorists tend only to give vague indications of what these alternative outcomes might involve. A point in case here is Graham Smith, who suggests that ‘rather than consensus, democratic deliberation is best understood as being oriented towards *mutual understanding*, which does not mean that people will always agree, “but rather that they are motivated to resolve conflicts by argument rather than other means”’ (2003: 59; quoting Warren 1995: 181). It is not clear, however, how such mutual understanding could be presented as an *outcome* of deliberation; rather, the term seems to refer to a desirable attitude of deliberators or to an *ethos* of deliberation. Dryzek, too, argues that ‘in a pluralistic world, consensus is unattainable, unnecessary, and undesirable. More feasible and attractive are workable agreements in which participants agree on a course of action, but for different reasons’ (2000: 170). In this case, however, the alternative to consensus appears to have little left in common with deliberation but instead could be the outcome of any traditional kind of political negotiation. Why, then, refer to this process as ‘deliberation’?

The problem of the practical unattainability of consensus and of the lack of convincing alternatives within the normative constraints of deliberative democratic theory highlights the larger problematic that deliberative democracy ‘lacks a theory of collective choice or a decision rule’ (Smith 2003: 73). ‘At some point’, Smith maintains, ‘decisions need to be made and preferences aggregated in some manner; and yet there is no decision-making principle implicit within deliberative democratic theory’ (2003: 73; see also Saward 1998: 64). Smith points out correctly that ‘the very idea of a deliberative decision-making institution exhibits a certain paradoxical quality [...]. A decision implies the *end* of a discursive process. But deliberation is, in principle, ongoing’ (*ibid.*; original emphasis). Given that consensus on complex issues in large, pluralist polities seems unattainable, Michael Saward (1998: 64) concludes that ‘no adequate model of democracy can fail to be “aggregative”’ and that ‘there is no such thing as a “deliberative model of democracy”’. Deliberative democracy thus faces a severe dilemma: if it sticks to its goal of ‘deciding’ policy issues and social discord by consensus-like agreement, it creates serious problems of democratic agency in both normative and practical terms. Some of these problems will be discussed in the next section, in relation to my own model of political agency, as presented in Chapter 3. If, on the other hand, the goal of deliberative-democratic ‘decision-making’ is completely abandoned, then deliberative democracy can no longer claim to be a model of democracy and we are left with what I will call, in section 4.2.2., a deliberative *ethos*.

4.2.1. Deliberation as political agency: ‘finding democratic solutions’

In Chapter 2 I presented the concept of ‘political grammar’, which defines the bounds of sense in a given society or polity. In what follows I want to show that in relating this concept to the discussion of deliberative democracy we can gain important insights into the

way deliberative democracy operates as a form of political agency, that is, as a way of intervening into societal reality. The concept of political grammar offers us the possibility of abstracting from deliberative democracy's normative dimension and of focussing on the question of what deliberative democratic instruments actually do with discourses and which forms of change they yield.

Let us start this analysis with a thought experiment. Imagine a citizen forum that has been assigned the task of deliberating the future energy supply of its polity. Among the deliberators are a radical green activist, a communist, a moderate environmentalist, and several other participants with less distinctive political views. Now assume that 'political grammar' has no influence on what happens inside the group – imagine that there are no sedimented structures of meaning that guide the deliberators' sense of what is 'possible' and 'impossible', but that, as the ideal of deliberation demands, all views are equally valid as long as they can be justified by reasonable arguments. What would happen? Can we make predictions? I believe we can. After some preliminary discussions about the options the polity has, the radical green activist would object that the options on the table must not be limited to types of power generation but must involve the option of a radical transformation of society's energy needs and that the whole debate must be predicated on the assumption of an intrinsic value of nature, which would automatically disqualify most forms of industrial power generation. The communist would perhaps jump in to say that he is not sure about the intrinsic value of nature but he thinks that any future energy supply must be publicly owned and that the general public must have a say in what to produce with this energy and under what conditions. One cannot discuss the politics of energy without a deeper analysis of social justice, class relations and capitalism, he would argue.

What would happen next? Could the above positions be dismissed as ‘ideological’ or ‘partial’? No, because we assumed that there is no grammar that tells us what an ‘ideological’ argument is, since all arguments are equally valid as long as they can be defended on reasonable grounds. Could they be so defended? It would at least be difficult to dismiss the ‘intrinsic value’ argument as ‘irrational’ and it would be an equally tough call to deny communism a rational basis. What is more, there would be no independent standard against which to judge the reasonableness of a position other than the test of deliberation itself. We have to assume that there would be strict adherents to private property in the forum and also some eloquent defenders of the market and of human-centred technological progress. There would be an impasse between the deliberators’ basic political views. The group would thus have to go through *all* the arguments tied to ecologism and communism, respectively, and through *all* counter-arguments provided by market-liberals and conservatives in the hope of finding some form of common ground.

Where would this debate – still under the assumption of the absence of any political grammar – lead? Most likely it would lead to an infinite regress of philosophical arguments about human nature, the value of non-human living beings, the purpose of society and the essence of capitalism. It would no doubt be a tremendously interesting debate, but it would not yield any ‘workable agreement’ (Dryzek), not even ‘mutual understanding’ (Smith), let alone ‘consensus’ (Habermas) on how to organise the future energy supply of a polity. Given that the only constraint of deliberation is that deliberators have to give reasons and provide publicly defensible arguments for their points of views, all the above positions could be defended *ad infinitum* without any incentive to converge on a common ground. The debate would not steer toward agreement, because without any external grammar organising the debate there is no guidance as to where the nucleus of such an agreement

could be found; therefore, the debate would tend to go the other way: deeper and deeper into the foundational arguments of every deliberator's personal conviction. This would be deliberation in its purest and perhaps most dignified form: an endless philosophical debate, an infinite exchange of reasons under conditions of mutual respect – but without any conclusion. No matter what the starting point of such a deliberative project would be: it would always result in the infinite regress of ontological arguments as long as there is no external grammar providing the crucial distinction between the possible and impossible.

Let us now reconsider the same scenario under the assumption that the deliberative forum would be held in a contemporary liberal-democratic country of Western Europe and that this country's political grammar would inform the 'reality' of all participants. What would be the difference? Most likely, the radical green activist's and the communist's statements would suffer the fate of the 'intelligible-but-impossible' right away. Most deliberators would fully comprehend the points of their more radical colleagues and perhaps even show some sympathy for them. But in one way or another either the moderator³⁶ of the group or some eloquent deliberator of more moderate convictions would make clear that 'unfortunately, this debate would lead us too far astray from our mandate'. It would be implicitly clear that within the political grammar of contemporary Western Europe it makes no sense to consider communism or a non-capitalist form of production in harmony with nature as political options. Perhaps by promising that environmental and social concerns will have to be taken into account, the radicals would be persuaded to refrain from substantive arguments that would lead the group deeper into irresolvable division. The dynamic within the group would instead be to search for 'common ground', and that would necessitate dropping extreme positions. What an extreme position is, however, can

³⁶ The literal meaning of the word 'to moderate' reveals itself in this instance.

only be decided by grammar: extreme is what is far away from the core of the 'possible'. That way, 'rationality' unwittingly gets conflated with 'possibility' or, to be more precise, 'possibility' becomes an implicit standard for the admission or exclusion of arguments. In every given context, the 'possible' as the core zone of a polity's grammar is the only orientation mark to provide a common ground for a deliberative agreement, given the rational undecidability of different worldviews and political convictions. In the absence of grammar deliberation would be lost in undecidability and condemned to eternal debate.

To conclude my thought experiment I suggest that the deliberators would soon find their common ground on the more technical level of assessing the environmental, social and economic implications of different technologies of power generation. They would all take the existing society (and its grammar) as their point of departure and would perhaps come to a 'mutual understanding' under the umbrella of the imperative of 'social and environmental sustainability'. They might then proceed to find a 'workable agreement' which might come as a technology-mix or a clear guideline to phase out fossil-fuelled power generation in favour of 'renewable energies' *wherever this is economically feasible*. They would converge on a formula that is ambitious but does not strain the bounds of the possible. Hence, a 'citizen forum' would present some kind of 'solution' to the 'problem' of future energy provision. This solution, however, would have to be predicated on the prior elimination of undecidable elements of the debate, and thus on the convergence of the deliberators on the acceptance of a common 'problem'.

From this thought experiment I derive the following claims: first, that deliberation, contrary to the theory's normative claims, is only operable within the 'bounds of sense' of a given political grammar which organises reasons along the criterion of their 'possibility'. It follows, secondly (and still in violation to deliberative democracy's normative claims),

that ‘possibility’ becomes a powerful criterion against which to judge reasons and arguments: in case of conflict, possibility will win over normative criteria. Thirdly, the subjection of deliberation to the guidance of grammar means that ‘undecidability’ within the deliberative process gets reduced or eliminated: since all reasonable arguments are in fact *not* equal (in the sense that the ‘better’ argument is often that which is ‘possible’), the process will tend to dismiss those that conflict with the core of political grammar. Fourth, and lastly, the deliberative process will tend to converge on a ‘problem’ that can be identified within the bounds of existing political grammar: the agreement thus achieved will present a ‘solution’ to that problem in the sense I have outlined in Chapter 3. As I will show in what follows, there is ample support for these claims in the writings of both proponents and critics of deliberative democracy.

To begin with, the unaccounted guidance of grammar or of ‘hegemonic discourses’ in democratic deliberation is the central concern of Iris Marion Young in her *Activist Challenges to Deliberative Democracy* (2001). In her essay, Young constructs a fictitious debate between a deliberative democrat and a political activist. According to the activist ‘the deliberative democrat who thinks that power can be bracketed by the soft tones of the seminar room is naïve’ (Young 2001: 675). Contrary to the deliberative democrat, he³⁷ thinks that ‘activities of protest, boycott, and disruption are most appropriate for getting citizens to think seriously about what until then they may have found normal and acceptable. Activities of deliberation, on the contrary, tend more to confer legitimacy on existing institutions and effectively silence real dissent’ (*ibid.*). While generally sympathetic with the project of deliberative democracy, Young tends to side with the activist’s view. She agrees with him that ‘existing social and economic structures have set

³⁷ In Young’s essay, the activist is male and the deliberative democrat female.

unacceptable constraints on the terms of deliberation and its agenda' (*ibid.*, 682). They constrain 'the alternatives that political actors may consider in their deliberations' (*ibid.*). These structures translate into a 'hegemonic discourse' which, in turn, systematically 'distorts' communication (*ibid.*, 685). Since deliberative democrats 'focus on the need for agreement to give policies legitimacy' (*ibid.*), they tend to converge on the hegemonic discourse as their common ground.

The work of Gutmann and Thompson is exemplary of this tendency. Citizens, according to them, should '*avoid unnecessary conflict* in characterising the moral grounds or drawing out the policy implications of their positions' (Gutmann and Thompson 1996: 85; my emphasis). What they are proposing is an 'economy of moral disagreement', which entails the 'search for *significant points of convergence* between one's own understandings and those of citizens whose positions, taken in their more comprehensive forms, one must reject' (*ibid.*; my emphasis). The question is of course what is to be regarded as 'unnecessary conflict' in an 'economy of moral disagreement'? Would the insistence of the deep green activist that nature has intrinsic value create such 'unnecessary conflict'? And would the offer of his fellow deliberators that environmental issues need to be considered provide a 'significant point of convergence'? If the answer is yes in both cases, then we have witnessed how an 'intelligible-but-impossible' position has been cancelled out and the focus of deliberation shifted towards the convergence-zone of the 'possible'. The point here is that in a situation of deep moral and/or political antagonism the 'search for convergence' can only mean to climb up the ladder to the surface of political phenomena until one finds common ground on the level of a shared reality. But this means, by implication, that actual and 'deep' deliberation gets distorted in the way Young describes: any fundamental issues that would challenge that shared reality must be eclipsed from the

process of finding ‘agreement’. The point of convergence is therefore always already contaminated by the status quo.

John Dryzek, too, stresses deliberation’s capacity to reduce the complexity and intractability of political disagreement as a positive asset. ‘The key here’, he says, ‘is restriction of the domain of preferences that can be sustained during deliberation’ (Dryzek 2000: 42). For him, ‘the whole point of deliberation is to “restrict domain” as the language of social choice theory would have it, because deliberation in inducing reflection on preferences and requiring that they be defended publicly eliminates preference orderings which cannot be so defended’ (*ibid.*: 43). While the positive effects of defending one’s political views in public debate cannot be denied, I would, however, caution against the view that these advantages are to be sought in ‘domain restriction’. I agree that public debate forces proponents to assess the logical consistency and discursive intelligibility of their positions, but that should only lead to a consolidation of the political imaginary in terms of ‘intelligibility’ and not in terms of ‘possibility’. What the term ‘domain restriction’ suggests, however, is a more violent selection than that. It suggests something along the lines of ‘convergence’, a process of selection that cancels out such positions that would inhibit the possibility of an unambiguous ‘social choice’. Domain restriction means that parties need to define a common ground or a ‘single dimension’ for their disagreement so that preferences can be ordered in a ‘single-peaked’ way and aggregated into an unambiguous outcome (Miller 2003). Dryzek’s endorsement of ‘domain restriction’ as being ‘the whole point’ of deliberation thus provides more evidence for deliberation’s inbuilt tendency to produce ‘solutions’.

The necessity of deliberative democracy to ‘restrict domain’ and to converge on the terrain of the possible is further emphasised by James Johnson’s observation that political discussion that involves parties that seek to challenge one another on a fundamental level is more likely to lead to ‘intellectual war’ (1998: 168) than to mutual understanding. With a view to historical debates on slavery and to contemporary debates on abortion, he shows that the fundamental level of basic world-views would have to be bracketed from deliberation in order not to lead to the conflict’s escalation. Lynn Sanders, finally, a pronounced critic of deliberative democracy, shares the view that deliberation is geared toward what I call the agentic mode of ‘solution’: ‘Deliberation is a request for a certain kind of talk: rational, constrained, and *oriented to a shared problem*’ (Sanders 1997: 370; my emphasis).

4.2.2. Deliberative democracy versus ‘deliberative ethos’

Deliberative democratic theory covers an impressive array of views, the common denominator of which is the idea that deliberation – understood as some form of unconstrained and rational dialogue – should play an important part in modern democracies. There are several dimensions along which the spectrum of theories can be organised. One of them concerns the question of what forms of communication should be considered ‘deliberative’; another concerns the status of ‘rationality’ within deliberation; and yet another concerns the status of ‘consensus’ in deliberative democracy. I have touched all of these dimensions in my discussion above. There is another important dimension, however, which concerns the ‘democratic’ function of deliberation. Here, two poles can be identified. At one end we have the view that deliberative democracy is a fully-fledged model of democratic decision-making which has to produce binding collective outcomes; at the other end are theories which see deliberation primarily as a civic virtue

and as an ideal of democratic discourse in civil society, but not as a way of making decisions. Both views offer different outlooks on political agency and transformative politics, but neither of them is without severe limitations.

Those strands of deliberative theory, which aim at establishing deliberative democracy as a model of decision-making, face the substantial problem that deliberative agreements can only be achieved in relatively small and manageable groups. As Simone Chambers observes, this leads to the view that deliberative democracy is best performed in ‘mini publics, that is, designed settings that can achieve and maintain standards of critical dialogue or that can be modelled to do so’ (Chambers 2009: 324). Such mini-publics are ‘designed to be groups small enough to be genuinely deliberative, and representative enough to be genuinely democratic’ (Goodin and Dryzek 2006: 220; cited in: Chambers 2009: 330). Examples of such forums are ‘deliberative opinion polls, citizen juries, consensus conferences and citizens’ assemblies’ (Chambers 2009: 330).

Two sets of problems arise from this strand of deliberative theory, the first of which concerns the question to what extent such mini-publics can legitimately claim to be representative of the general public (*cf.* Smith 2003: 91). The claim inherent to deliberative theory is that as long as deliberation is unconstrained and uncontaminated by strategy, power and partial interests, the outcome reflects ‘the public use of reason’ (Bohman and Rehg 1997: x) and is therefore valid for the wider public. This is of course a bold and implicit ‘representative claim’ (Saward 2006) which substitutes the authority of reason for the contingency of electoral outcomes. The boldness of the claim resides in the fact that someone else (the mini-public) is authorised to tell me (the general public) what is ‘reasonable’; if I don’t agree with the outcome it is because I did not go through the

process of deliberation myself and hence do not *understand* the complexity of the issue in question. The deliberative outcome is held to be *epistemically* superior to the mere ‘opinions’ of the mass public (Cohen 1986; Estlund 1997; Dryzek 2000: 174). This assumption of course systematically denigrates the legitimacy of world-views, belief-systems and ideologies. Further, it shows little respect for the intellectual autonomy of the individual as well as for the idea of popular sovereignty: the sovereign here is the deliberative outcome (i.e. ‘public reason’), not the people and its diverse views. By contrast, aggregative forms of democracy, their shortcomings notwithstanding, do respect the integrity of the person and her political views as the baseline of legitimacy. The power-relations and political decisions resulting from elections and referenda are contingent, but this contingency is precisely what forms the basis of their *democratic* legitimacy. The individual can cast her vote and ‘fight’ for her political views in the public sphere and if she loses she can accept as democratic the fact that ‘the others’ are in the majority. It is far more difficult, however, to accept that one’s view is considered ‘inferior’ to a supposedly ‘rational’ result of deliberation.

The problem of ‘deliberative representation’ is of course exacerbated by the second problem, which I have already discussed at length: that deliberative ‘decisions’ are produced by making divergent views converge in the zone of the ‘possible’. Both of these difficulties – the problem of ‘deliberative representation’ and the problem of ‘convergence in the zone of the possible’ – are avoided by those strands of deliberative democratic theory that focus on the discursive process of deliberation rather than on its outcome. Such theories see deliberation as an essential activity in the mass public rather than in mini-publics (Chambers 2009: 334). They focus on the public sphere as a deliberative forum without an institutional design and without the requirement to arrive at binding

agreements. What counts, instead, is the idea that public deliberation brings more rational arguments to the fore and leads to better, more just, and more rational political decisions (*cf.* Dryzek 2000: 174).

Two of the most prominent proponents of this process-oriented approach to deliberative democracy are Jürgen Habermas and John Dryzek. In *Between Facts and Norms*, Habermas depicts the relation between the public sphere and the political system as a relation between ‘communicative’ and ‘administrative’ power. Communicative power ‘influences the premises of judgement and decision making in the political system without intending to conquer the system itself’ (Habermas 1996a: 487). The whole process passes through three stages: ‘Informal public opinion-formation generates “influence”; influence is transformed into “communicative power” through the channels of political elections; and communicative power is again transformed into “administrative power” through legislation’ (Habermas 1996b: 28). This model, however, offers a quite ‘old-fashioned’ view of democratic politics, as Dryzek (2000: 25) notes, which does not leave much room for a more direct influence of deliberation on democratic outcomes.

John Dryzek refers to his own strand of deliberative theory as ‘discursive democracy’, in order to set it apart from the ‘connotations of calm, reasoned, argument’ that are commonly attached to the term ‘deliberation’ (Dryzek 2000: vi). A discursive process, by contrast, ‘connotes something much more expansive in the kind of communication it allows, including unruly and contentious communication from the margins’ (*ibid.*). The main inspiration for Dryzek’s version of deliberative democracy is *critical*, not *liberal* theory. Hence, the aim of the deliberative/discursive process for him is geared towards an empowerment of insurgent discourses, and not towards rational consensus. For him,

deliberative democracy 'must be critical in its orientation to established power structures, including those that operate beneath the constitutional surface of the liberal state, and so insurgent in relation to established institutions' (Dryzek 2000: 2). The public sphere is the place where alternative and dissident discourses can flourish and gain enough weight to influence decisions in the state. Like Habermas, Dryzek acknowledges that in contemporary societies the state is the main structure to take decisive collective action, and he regards the public sphere as the locus of discourse where state-decisions can be influenced. It is therefore 'important to maintain a public sphere autonomous from the state, for discursive interplay within the public sphere is always likely to be less constrained than within the state. It is within the public sphere that insurgent discourses and identities can first establish themselves' (*ibid.*: 79).

Seen this way, deliberation in the public sphere might indeed yield patterns of political agency that differ significantly from the more outcome-oriented variants. This is for two reasons: firstly, as soon as the pressure to arrive at agreements is eliminated, deliberation is liberated from any need of 'convergence'. Instead, the discursive deliberation Dryzek has in mind tends to treat dissident and insurgent discourses as equal to the dominant ones that constitute the 'possible' core of political grammar. Secondly, discursive democracy has no ambition to be representative. Instead, it is conceived as ongoing 'discursive contestation' between different political and perhaps cultural rationalities. It respects the aggregative modes of representation in modern democracies but claims that they need to be supplemented by a vibrant and autonomous public sphere. Hence, deliberative democracy understood in Dryzek's terms actually aims to open the grip of political grammar and to blur the lines between the 'intelligible' and the 'possible'. Its aim is to take 'intelligible-but-impossible' discourses seriously and to give them the chance to prove themselves in

the daily struggles of public debate. That way, there are more options for the state to take decisive action than the otherwise rigid political grammar would offer. In that sense, Dryzek's discursive democracy can be described as driven by a 'transformative' intention, since it aims to establish a public sphere that is strong enough to force political grammar to incorporate elements it would otherwise reject. It is interesting to note that Dryzek is indeed very sceptical of the inclusion of civil society into the realm of state administration by way of political participation. He sees state imperatives – primarily those of satisfying the needs of the economy – as threatening free public discourse: a civil society that is too intimately tied to the state has to yield to the same imperatives as the state (Dryzek 2000: 81 f.). In Chapter 3, I have shown that the state in recent years has expanded its administrative mode of agency ('solution') deep into the public sphere and has managed to cushion those discourses that challenge existing grammar. Dryzek is wary of these developments and instead argues for 'a state that is in important aspects exclusive, for exclusion properly arranged can actually benefit democracy and democratization, even from the point of view of those excluded' (*ibid.*: 87). A clear demarcation line between the state and the public sphere, according to Dryzek, benefits democracy precisely by allowing civil society to cultivate its own discourses, that is by allowing civil society to move freely within the zone of the intelligible.

Dryzek's vision of a discursive democracy is interesting because it seems to realize the importance of a democracy that loosens the grip of political grammar and that offers modes of political agency beyond 'solution' and 'choice'. However, there is at least one crucial shortcoming too: Dryzek hesitates to supplement his vision with a proposal of how to arrive at a discursive democracy. Other than a vague indication that corporatism can be a benign way of exclusion (2000: 106), he does not make any institutional suggestions. His

theory ‘lacks a creative aspect’, as Smith (2003: 127) puts it. Without an attempt to institutionalise discursive democracy, however, we are left with an ideal of a vital and active public sphere that is laudable but not very innovative. Dryzek does not offer any perspective of how to improve the existing democratic layout of modern societies ‘aside from celebrating the critical orientation of progressive networks, movements and associations towards the state’ (Smith 2003: 127). By accepting all sorts of ‘unruly’ communication as deliberative, furthermore, it is very difficult to see how far his notion of deliberation differs from other forms of political discourse.

This shortcoming of Dryzek’s discursive democracy points to a common weakness in all versions of deliberative democracy that focus on the mass public and on deliberation as a process: they all tend to culminate in a laudable but rather inconsequential celebration of deliberation as a civic virtue (which requires an ‘enlarged mentality’) and a democratic ideal. In the last instance these theories offer little more than the advocacy of a *deliberative ethos* in the public sphere – what they lack, however, is the prospect of democratic innovation. Since communication in the mass public cannot be controlled like in mini-publics, there is no way to safeguard the ‘deliberative’ nature of public discourse. Hence, deliberative theories that aim at the mass public have no choice other than to either allow all sorts of respectful discourse to be categorised as ‘deliberation’ or to appeal to deliberation as an ethical ideal.

In conclusion, the theory of deliberative democracy appears to be stuck in a severe dilemma: if it tries to be a proper ‘model of democracy’ offering an alternative method of democratic decision-making, it runs into severe problems of democratic accountability (the paradox of ‘deliberative representation’) and political agency (the self-limitation to the

agentic mode of 'solution'); if, on the other hand, it tries to avoid these problems by focusing on the wider public sphere and on deliberation as a form of communication, it loses its innovative edge and ends up as a rather conventional narrative about the importance of open public discourse. This dilemma, I argue, reveals the historical and ideological roots of deliberative democracy as an attempt of liberal theory to finally come to terms with democracy. It is the attempt to marry the liberal doctrine of 'reason' with the pluralism of democracy. The underlying assumption is that there is a reasonable core in pluralism that can be carved out by deliberation. The resulting model of democracy must either fail to be properly democratic (as in the case of outcome-oriented mini-publics) or properly deliberative (as in the case of process-oriented mass publics).

Chapter 5: Radical Democracy and Political Agency

The third approach to democratic thinking I want to discuss in this thesis is that of radical democratic theory. Radical democracy is used as a common denominator for a relatively diverse field of theories which all share ‘a commitment to a critique of liberal democracy’ (Norval 2001: 587) and aim to radicalise and deepen its democratic dimension. This tradition, which is critical of the apolitical and anti-democratic tendencies in liberalism, can be traced back to Rousseau and Marx and has been associated, in the twentieth century, with authors such as C.B. Macpherson (e.g. 1962; 1966; 1973), Benjamin Barber (1984), William E. Connolly (e.g. 1992; 1995; 2011), Ernesto Laclau, Chantal Mouffe (e.g. Laclau and Mouffe 2001 [1985]) and Jacques Rancière (e.g. 2002; 2007; 2010). While some scholars also include deliberative democratic theory in the family of radical democracy due to its participatory and non-aggregative approach (*cf.* Norval 2001), I would suggest a more rigid analytical distinction between radical and other critical strands of democratic theory. What defines the ‘radical’ element in radical democratic theories, I argue, is the acknowledgement of the ultimate undecidability of the social and the contingency of all political order. What is ‘radical’ about democracy, then, is that the political moment of decision-making is ineradicable and that democracy is about political contention rather than the search for a rational consensus. It is about ‘decision’ rather than ‘solution’, to use my terminology of agentic operators. And it is this focus on the agentic operator of decision that makes radical democracy a particularly interesting and promising strand of democratic theory within the framework of my analysis.

The conceptual association of radical democracy with the need for decision is perhaps most profoundly elaborated in the work of Ernesto Laclau and Chantal Mouffe. I will

therefore focus my attention in this Chapter on an in-depth discussion of their version of a radical democratic theory. While their vindication of the decision as the necessary condition of the political offers an exciting alternative to the aggregative and deliberative models, their insistence on hegemony as the exclusive conceptual framework within which the political as decision-making is to be conceived creates a series of complications and disappointments that will be thoroughly discussed in this Chapter. What I hope to achieve is thus on the one hand to identify those aspects of radical democracy that offer analytical tools to overcome the agentic deadlock in liberal democracy and on the other to identify those shortcomings of Laclau and Mouffe's project that ultimately keep it from activating the transformative potential of the agentic operator of decision within a democratic setting.

Laclau and Mouffe first presented their radical democratic project in their co-authored book *Hegemony and Socialist Strategy*, in 1985 (reprinted in 2001). At a time when the Marxist imaginary was in decline in the West and traditional class-struggle was superseded by the various struggles of the so-called new social movements (Townshend 2004: 269), their book presented an attempt to save the emancipatory and democratic potential (and indeed the political relevance) of the Marxist project by deconstructing some of its central categories and by redefining the scope and aims of (post-) Marxist politics. Two central assumptions, in particular, of classical Marxism were dismantled by Laclau and Mouffe: first, that 'class' is the privileged category of political agency; and, secondly, that the economic 'base' of society determines its ideological-political 'superstructure'. What they put centre stage instead is the Gramscian concept of *hegemony*, which they rarefied and radicalised within a new theoretical framework built from discourse-theoretical, deconstructivist and psychoanalytical components. As a consequence of this intervention the category of *the political* was liberated from its economic determination in classical

Marxism. The political, for Laclau and Mouffe, designates 'the problem of the institution of the social, that is, of the definition and articulation of social relations in a field criss-crossed with antagonisms' (2001: 153). It is another word for the undecidability that is constitutive of the social world. The 'institution of the social' is both a necessity (without it, no order could be formed) and an ultimate impossibility (whatever order is formed is always subverted by antagonism and undecidability). This very centrality of the political presents the logical starting point of Laclau and Mouffe's radical democratic theory. Within it, the concept of hegemony assumes the status of 'the general logic of the political institution of the social' (Critchley and Marchart 2004: 3). It is nothing less than 'a theory of the decision taken in an undecidable terrain' (Laclau and Mouffe 2001: xi).

The radical democratic project of Laclau and Mouffe can be seen as consisting of two overlapping but not completely congruent strands: one is the theory of hegemony itself, which has been further elaborated and deepened by Ernesto Laclau after the publication of *Hegemony and Socialist Strategy*. The other is Chantal Mouffe's project of a democratic theory of *agonistic pluralism*. While Laclau has developed the theory of hegemony into a *general* theory of the political in recent years (*e.g.* Laclau 1996a; 2005), Mouffe engaged in contemporary debates in democratic theory, defending her understanding of the political against political liberalism, deliberative democracy and Third Way social democracy (*e.g.* Mouffe 2000; 2005). In what follows, I will deal with both dimensions consecutively. Since Mouffe's project is very much based on their jointly developed theory of hegemony, and since hegemony is at the core of their conception of a 'radical democracy', I will dedicate more space to hegemony theory than to 'agonistic pluralism' (which can be regarded a 'spin-off' from the former). In the next section, I will therefore discuss at some length the theory of hegemony as it has been jointly developed by Laclau and Mouffe and

further elaborated by Laclau; after that I will dedicate a briefer section to Mouffe's agonistic model of democracy.

5.1. The theory of hegemony

In its core, the theory of hegemony, as developed by Laclau and Mouffe, is a theory about the relation between the *universal* and the *particular*. It says that the universal can only exist in that a particular content assumes a function of universal representation. The universal, in other words, can only exist *as* a particularity. Hegemony, then, is 'this operation of taking up, by a particularity, of an incommensurable universal signification' (Laclau 2005: 70). A particularity (a particular discourse or demand) hegemonises the entire discursive field and thus assumes the status of an over-arching, truth-like meaning that can be called, using the old metaphysical term, *universal*.

At the root of this aporetic relation between the universal and the particular lies the deconstructivist insight that the universal as an independent entity, as a metaphysical truth, is untenable and has to be abandoned. At the same time, however, its *function* is still indispensable for the institution of the social. Without a kernel around which meaning can organise itself, no order could emerge and society would be in a state of chaos. Hence, the concept of the universal has to be retained for technical reasons, while it has to be emptied of its metaphysical meaning. In Laclau's own terms, 'the universal has no content of its own, but is an absent fullness, or, rather, the signifier of fullness as such, of the very idea of fullness' (Laclau 1996a: 15). Without such an idea of fullness no society could constitute itself, for it would lack the idea of itself as a society. But universality as such is nothing but that idea, it is effectively *empty* – an *empty signifier* that has to be charged or filled with particular contents (*cf. ibid.*).

An important consequence of the fact that the universal can only be incarnated in terms of particularities is that ‘society’ in the sense of a closed system of meaning is ‘impossible’ (Laclau and Mouffe 2001: 114). ‘There is no sutured space peculiar to "society", since the social itself has no essence’, as Laclau and Mouffe point out. Crucially, however, ‘[i]f the social does not manage to fix itself in the intelligible and instituted forms of a *society*, the social only exists [...] as an effort to construct that impossible object.’ Put differently, all politics is geared towards constructing ‘society’ without this ultimate objective ever being achievable.

The relation between particularities competing for the position of universality in an effort to institute the social as society is that of *antagonism*. As Laclau and Mouffe point out, however, antagonism is not to be understood as a mere opposition between two entities (A – B) or as a logical contradiction (A – not A), but in a subversive sense: ‘the presence of the “Other” prevents me from being totally myself. The relation arises not from full totalities, but from the impossibility of their constitution’ (Laclau and Mouffe 2001: 125). The hegemonic status of one particularity prevents other particularities from fully developing their identities. At the same time, however, the hegemonised particularities prevent the hegemonic particularity from fully becoming ‘itself’, that is, from fully assuming the status of the universal. Antagonism thus designates the impossibility of the full establishment of any identity and thus the impossibility of ‘society’. In this sense, ‘antagonism constitutes the limits of every objectivity, which is revealed as partial and precarious *objectification*’ (*ibid.*, original emphasis). It is important, in this context, to call to our attention the distinction Laclau introduces between the ‘political’ and the ‘social’ in his book *New Reflections on the Revolution of Our Time* (1990): ‘[t]he sedimented forms

of “objectivity” make up the field of what we will call the “social”. The moment of antagonism where the undecidable nature of the alternatives and their resolution through power relations becomes fully visible constitutes the field of the “political” (Laclau 1990: 35). Laclau borrows the term ‘sedimentation’ from Husserl, where ‘it is a name for the routinization and forgetting of origins’ (Marchart 2007: 139), a process that is essential to the success of any hegemonic project. Hegemony is thus about turning meanings and practices into a ‘sedimented’, unquestioned form of normality or ‘objectivity’, which is the realm Laclau calls the ‘social’. Antagonism, by contrast, is the principle that undermines such objectivity by ‘reactivating’ the undecidable, contingent and therefore political origins of meanings and practices. This process of reactivation of contingency – which Laclau also calls ‘dislocation’ (1990: 41 ff.) – constitutes ‘a widening of the field of the possible’ (*ibid*: 43), in that possibilities emerge that have hitherto been outside the sedimented topography of meaning.³⁸

The view of society as an impossible but necessary project can only be logically defended within the conceptual framework of *discourse theory*, which forms the theoretical bedrock of the theory of hegemony. Discourse theory assumes that the meaning of objects is not pre-given but socially constructed according to ‘historically specific systems of rules’ (Howarth and Stavrakakis 2000: 2). These systems of rules are called discourses. Laclau and Mouffe insist that ‘every object is constituted as an object of discourse, insofar as no

³⁸ It is apparent that this part of Laclau’s theory has much in common with the conception of ‘grammar’ and the ‘political imaginary’ I have presented in Chapter 2: grammar is the result of processes of sedimentation, of the ‘forgetting of origins’ – only thus can it constitute the ‘bounds of sense’, the underlying structure that allows for the partial fixation of meaning. Grammar is the precondition of ‘social objectivity’. Dislocations are ruptures that force grammar to accommodate an element that was hitherto rejected and thus to transform itself. New possibilities are included and *objectified*; others will be excluded. However, there are also important points of divergence between Laclau’s conception of political change and the one I am defending here, which mainly concern the question whether hegemony or grammar should be the guiding concept in political analysis. While Laclau opts for hegemony, I argue for grammar, the reasons for which I will point out in more detail below.

object is given outside every discursive condition of emergence’ (2001: 107). While there can be no doubt that there exists a world external to thought, what it means to us is always a matter of how it is constructed as an object of discourse (*ibid.*: 108). Ultimately, we have no way of leaving the world of discourse. Importantly, Laclau and Mouffe affirm ‘the *material* character of every discursive structure’ (*ibid.*, original emphasis). Discourse, then, involves not only language, but also actions and the material objects they involve.³⁹

Following the linguistic theory of Saussure, Laclau and Mouffe conceive of discourse as ‘a differential and structured system of positions’ (2001: 108). For Saussure, language was a system of signification consisting of pure difference. Within this system, all identity is *relational*, which means that no meaning can be positively fixed, but only in relation to what it is *not* (*cf.* Marchart 2007: 140). This, however, presents us with the following problem: for any meaning to be able to emerge in such a field of differences, the field itself would have to be closed and turned into a system proper. For only if the play of differences is limited can the meaning of elements be fixed; in an open field, by contrast, differences could always relate to something else and no meaning would emerge. If one does not accept this structuralist closure of the field of signification – which would reintroduce a kind of extra-discursive objectivity in the form of ‘underlying structures constituting the inherent law of any possible variation’ (Laclau and Mouffe 2001: 113) – one is left with the question of how meaning can emerge in an open field of differences. The answer Laclau and Mouffe present is based on the post-structuralist conception of language as developed by Derrida (1978), in that they conceive of the field of discursivity as a ‘field dominated by the desire for a structure that [is] always finally absent’ (Laclau and Mouffe

³⁹ In that sense, Laclau and Mouffe’s notion of discourse is close to Wittgenstein’s notion of language games (*cf.* Laclau 2005: 106) – and indeed to his notion of grammar, which is an aspect I will discuss in more detail below.

2001: 113). In that sense, '[a]ny discourse is constituted as an attempt to dominate the field of discursivity, to arrest the flow of differences, to construct a centre' (*ibid.*: 112).

In this context, the concept of 'articulation' becomes essential. It 'consists in the construction of nodal points which partially fix meaning; and the partial character of this fixation proceeds from the openness of the social, a result, in its turn, of the constant overflowing of every discourse by the infinitude of the field of discursivity' (*ibid.*: 113). Put differently, articulation is the practice by which partially closed structures of meaning (discourses) are constructed within the open field of discursivity. It is defined to designate 'any practice establishing a relation among elements such that their identity is modified as a result of the articulatory practice' (2001: 105). Furthermore, they call *moments* '[t]he differential positions, insofar as they appear articulated within a discourse' and *element* 'any difference that is not discursively articulated' (*ibid.*: 105). Elements as unarticulated differences, then, turn into moments of a discourse as soon as they become articulated.

This still leaves us with the question of how systems of meaning can emerge in an essentially open field of discursivity. The only logical solution to that problem is to conceive of the limit of the discursive formation (the system of differential positions) as not just another difference (in which case we could not differentiate between the inside and the outside of the system and the flow of differences would once again not come to a halt), but as a *radical* outside, one that consists of pure negativity. That way, all moments of the discursive formation cancel their differential character in precisely one respect: with regard to their common 'beyond', their 'constitutive outside' (*cf.* Laclau 1990: 17-18; Marchart 1998: 8-9). In this single respect, the moments of a discursive formation are therefore *equivalent* to each other. This is the *logical* form of the concept of 'antagonism': it is the

equivalential frontier that constitutes the limits between discursive formations. The unity of a discursive formation is thus attained in that it is set off from other such formations in an antagonistic manner. As Laclau (1996a: 38) points out, '[o]nly if the beyond becomes the signifier of pure threat, of pure negativity, of the simply excluded, can there be limits and system (that is an objective order)'. Hence, meaning can culminate around a nodal point in that elements are articulated into moments of a discourse which are equivalent in 'their common reference to something external' (Laclau and Mouffe 2001: 127). That way, no moment of a discourse is ever fully present as pure positivity, but owes its being to the negativity that constitutes the limit of the formation of which it is a part. As a consequence, all meaning is precarious in that no system can ever fully and positively be established: 'systematicity' as such is only possible through the radical negativity of its limits.

5.1.1. Hegemony as a political logic

We now have all the analytical components in place to describe hegemony as a political logic. Let us start with an example provided by Laclau:

[I]n a climate of extreme repression any mobilization for a partial objective will be perceived not only as related to the concrete demand or objectives of that struggle, but also as an act of opposition against the system. This last fact is what establishes the link between a variety of concrete or partial struggles and mobilizations – all of them are seen as related to each other, not because their concrete objectives are intrinsically related but because they are all seen as equivalent in confrontation with the repressive regime. It is not, consequently, something positive that all of them share which establishes their unity, but something negative: their opposition to a common enemy. (Laclau 1996a: 40-41)

This negative equivalence of the elements in opposition to an antagonising force makes possible their articulation into a 'chain of equivalences' (Laclau and Mouffe 2001: 129), and thus into a common project. A struggle for better wages, a struggle against ethnic discrimination and a struggle against tuition fees at universities, for example, could all be

articulated into a common political project on the basis that they are equivalent in their common opposition to the repressive regime. Crucially, there is no *necessary* relation between these struggles in positive terms: they could all remain separate in terms of the ‘interests’ of certain groups, for example. However, once they are perceived as equivalent to each other in opposition to a common enemy, they start to enter into a relation that will alter the very identity of each element: they are articulated as *moments* of a single struggle.

In order for such an equivalential chain to become a *hegemonic* project, however, another step has to be taken: one of the elements that are being articulated into the chain of equivalences has to take on the role of *representing* the whole chain.⁴⁰ This is only possible insofar as it is *emptied* of its particularistic meaning, that is, insofar as its particular content starts to stand for the universal aim of the whole equivalential chain. This is the precise meaning of the term ‘empty signifier’ in Laclau’s theory. The empty signifier (a signifier that no longer corresponds to a *particular* signified) operates as a point of identification in that ‘it *represents* an equivalential chain’ (Laclau 2005: 162). The function of the empty signifier is to fix the meaning of the chain: to give it a *name* (Laclau 2000a: 185; 2005: 108). Typical examples of empty signifiers would be: unity, liberation, revolution, order, solidarity, democracy or justice (*cf.* Laclau 1996a: 44; 2000a: 185). On the one hand, they constitute a particular moment within a chain of equivalential demands, but on the other hand they start signifying the chain itself. Once that point is reached, all other moments of the chain are demands ‘in the name of’, say, democracy, justice, etc. Crucially, empty signifiers work because – and as long as – they embody the (unachievable) fullness of society; their function is to fill the constitutive lack from which society suffers: justice against an unjust regime; democracy against repression; order against chaos, and so on

⁴⁰ Laclau also calls elements ‘floating signifiers’ because their meaning is not attached to a specific discursive structure. As soon as they get articulated into such a structure they lose their ‘floating’ character and turn into *moments* of that discourse.

(Laclau 1996a: 44; 2005: 71). What the empty signifier represents, in fact, is the common vision of 'society' as a sutured space, as an accomplished project. This is the reason why it can be 'filled' with particularity, with different demands, ideas and issues that all become articulated into the chain of equivalences. The better the empty signifier functions as a placeholder for that absent fullness, the more floating elements will be able to attach themselves to the chain.⁴¹

On a practical level, the unattainability of fullness, the precariousness of every hegemonic project, is owed to the fact that another logic is countervailing the logic of equivalence, and that is the *logic of difference*. It 'consists in the expansion of a given system of differences by dissolving existing chains of equivalence and incorporating those disarticulated elements into an expanding order' (Howarth and Stavrakakis 2000: 11). Put another way, the dominant power against which the chain of equivalence is directed will try to unhinge individual elements from the chain and thereby re-establish their particularistic, differential character. That way, particular political demands are isolated and lose their antagonistic character. Laclau provides us with a telling anecdote from his time as an activist in the Argentinean student movement:

In some sense our worst enemies were those university administrators who offered concrete solutions to the problems we were posing – not, obviously, in the sense that we dismissed these solutions, but in that the important thing, for us, was to see those partial victories as mere episodes in a protracted war of position tending towards more global aims. (Laclau 2000a: 209)

This is an experience Laclau shares with many people who are or were once involved in a wider political movement: while the movement is trying to construct a chain of

⁴¹ The notion of the empty signifier is owed largely to the psychoanalytical theory of Jacques Lacan. As Laclau and Mouffe (2001: xi) point out, 'Lacanian theory contributes decisive tools to the formulation of a theory of hegemony. Thus, the category of *point de capiton* (nodal point, in our terminology) or master-signifier involves the notion of a particular element assuming a "universal" structuring function within a certain discursive field [...] without the particularity of the element *per se* predetermining such a function'.

equivalence across ever larger sectors of society in an effort to make the political system as such the target of political action, the system kindly addresses one issue after the other that were raised by the movement, offering 'solutions' to particular problems. This strategy of disarticulation of course reminds us of the 'agentic deadlock' in liberal democracy I discussed in Chapter 3: the participatory mechanisms of modern 'governance' can be analysed in terms of powerful instruments of the liberal democratic state to disarticulate chains of equivalence in the public sphere and to provide fields of engagement for civil society actors in particularistic policy areas. Environmental issues, social issues, gender issues and issues of racism, to name but a few classical fields of civil society engagement, are kept as separate policy fields in which civil society is invited to contribute to 'solutions'. The 'radical democratic' view of Laclau and Mouffe, on the other hand, would be to regard all these areas as 'symptoms' of an underlying antagonism that need to be articulated into an equivalential chain in order to engage in a hegemonic struggle against the contemporary capitalist order. Thus, as Laclau and Mouffe (2001: 130) point out, 'the logic of equivalence is a logic of the simplification of political space' – in that diverse struggles are unified as 'one' -, 'while the logic of difference is a logic of its expansion and increasing complexity' – in that unified struggles get separated into different 'issues'.

The antagonistic relation between the dominant order and the hegemonic struggle is described by Laclau and Mouffe, following Gramsci, as a 'war of position' (2001: 136). It is essentially a war between the logic of equivalence and that of difference, a war for hegemony over the realm of signification. As we have seen, this war can never be entirely won or decided, but one hegemonic project can expand over its antagonist by disarticulating the opposing chain of equivalence (and by integrating the disconnected floating signifiers into its own chain). The signifier 'health care', for example, can be articulated with the project 'solidarity' or with that of 'liberty', and, given that one of those

projects will succeed in expanding a hegemony over society, the other alternative will become less 'intelligible', and indeed less 'possible', to use the vocabulary I have introduced in Chapter 2. Hence, as Laclau explains, after its disarticulation from a chain of equivalence, 'the particularized element does not simply remain as purely particular, but enters into a different set of equivalences (those constituting the identity of the dominant powers)' (Laclau 2000b: 304).

Once a hegemonic formation is stabilised and the opposing projects disarticulated to an extent where they pose no direct threat to the hegemonic chain of equivalences, the process of sedimentation and objectification of the social sets in. This is the partial and limited 'victory' that is possible within the infinite 'war of position': the shifting of the frontier deep into the 'enemy's' terrain. The following passage by Anna Marie Smith captures well what is at stake in this process:

Laclau argues that an articulation becomes hegemonic to the extent that it operates as a horizon. Because it is wholly contingent, the institutionalisation of a particular articulation can only be accomplished through the violent suppression of alternatives. Habitual repetitions of the hegemonic articulation conceal the traces of that violent suppression; over time, the repetitions install the hegemonic articulation as the only possible coherent formation. The hegemonic articulation gradually loses its appearance as one alternative among many, and begins to operate as the rule which establishes an ahistorical and apolitical distinction between *intelligibility* and *unintelligibility*. To borrow the language of Thatcherism, hegemony does not depend on popularity, it depends on the normalisation of the idea that there is no alternative. (Smith 1994: 230; my emphasis)

The success of a hegemonic bloc thus depends primarily on rendering 'unthinkable' any coherent set of alternatives (*cf.* Marchart 1998: 14). This 'grammatical' function of dividing the field of discursivity into 'possible' and 'impossible', 'intelligible' and 'unintelligible' zones is the way in which a hegemonic formation makes 'decisions' – it discards options by making them unthinkable and opens up others by dislocating

sedimented structures of meaning. 'I can only open up the terrain of some historical possibilities by closing others', as Laclau points out in a conversation with Judith Butler (Butler and Laclau 2004: 334). In my critical assessment of radical democracy towards the end of this Chapter, I will take issue, however, both with the way 'decisions' are made in hegemonic operations and with the 'grammatical' function of hegemony. I will argue that hegemony is not the ideal way of conceptualising either of these terms.

5.1.2. Hegemony and democracy

It is now important to determine the way in which the theory of hegemony is related to – or understood as – a theory of *democracy* in Laclau. This will then lead us directly to an analysis of the limitations of the theory of hegemony.

There are two dimensions or perhaps even two different readings of the link between hegemony and democracy in Laclau. One regards the form, the other the content of democracy. As regards the first – formal – dimension, Laclau explains the relation between hegemony and democracy thus:

I have defined "hegemony" in my work as the type of political relation by which a particularity assumes the representation of an (impossible) universality entirely incommensurable with it. [...] To this I will add that I see democracy as a type of regime which makes fully visible the contingent character of the hegemonic link. (Laclau 2001: 5)

Drawing on Lefort, Laclau further points out that 'each of the competing forces in the democratic game tends to make as permanent as possible the occupation of the empty place of power; but if there was no simultaneous assertion of the contingent character of this occupation, there would be no democracy' (Laclau 2001: 8). So, while democracy 'presupposes that the place of power remains empty' (*ibid.*: 7), the question arises what

ominous force guarantees that the struggle for hegemony remains a democratic ‘game’, to use Laclau’s word, a competition for a place that is ultimately never filled. I presented my answer to this question in Chapter 1, but Laclau does not seem to share my argument about ‘epistemic legitimacy’, about the ‘epistemic bond’ between representatives and represented as the only way in which the relation of representation can be stably put to work and the place of power kept empty. While he stresses that ‘democracy requires the constant and active production of that emptiness [of power]’ (*ibid.*: 12), Laclau does not tell us how this is to be done other than in the discursive reproduction of the democratic *belief* in the emptiness of power.

But is there not a certain incompatibility between the democratic principle (emptiness of the place of power) and the hegemonic aim (occupation of the place of power) that cannot be reconciled simply by the mere *assertion of the contingent character* of the occupation? How can a hegemonic project succeed and the place of power be left empty at the same time? If hegemony adhered to the same democratic rules as an elected government, would it still be hegemony? Or, conversely, is every hegemonic project automatically rendered democratic by the acknowledgement of its own contingency? Is contingency really a sufficient criterion for democracy? There is clear evidence that Laclau would support such a position:

[T]he hegemonic force has to present its own particularity as the incarnation of an empty universality that transcends it. So it is not the case that there is a particularity which simply occupies an empty place, but a particularity which, because it has succeeded, through a hegemonic struggle, in becoming the empty signifier of the community, has a legitimate claim to occupy that place. (Laclau 2005: 170)

The hegemonic victory itself legitimises the occupation of the empty place of power, it seems – and to the extent that the victor acknowledges the contingency of her own

position, her hegemony can be called ‘democratic’. The democratic principle in Laclau is thus reduced to the acknowledgement of the contingency of all power. There are no procedural requirements as to how power is to be attained or distributed – whoever wins it in a hegemonic struggle is its legitimate owner.

Ultimately, the ambiguity in Laclau’s view of the relation of democracy and hegemony manifests itself in his conceptual ambiguity between the ‘emptiness of the place of power’ and the ‘acknowledgement of contingency of hegemony’ as the defining characteristics of democracy. The former, however, is a much stronger criterion than the latter – one that can only be fulfilled with the help of specific institutions and procedures; the latter is more like an attitude or a state of awareness that can be ascribed to most modern forms of politics. Laclau never associated his theory of hegemony with specific procedures since he regards it as a universal political ‘logic’ rather than a ‘regime’. Hence, the ambiguity Laclau does not seem to be willing to resolve is that between democracy as a *regime* and hegemony as a political *logic*. Hegemony does not make much sense when conceived of as a democratic institution; and democracy does not make much sense when it simply legitimises the powerful by virtue of being victorious. Instead, hegemony will always try to occupy the place of power, and democracy will always require its remaining empty.⁴² Analysing hegemony *as a form* of democracy is therefore dangerously misleading. Hegemony is the (ultimately unattainable) attempt to put certain contents out of question – while the place of power may formally remain empty. It is a substantive form of power that resists democratic accountability precisely because it determines the contents of democratic

⁴² That hegemonic formations are able to *transcend* democratic procedures and to occupy the place of power *beyond* the formal requirements of democracy, however, (as in the case of the so-called ‘neo-liberal’ hegemony that has been controlling the Western world for the past thirty years regardless of electoral outcomes) is a different matter altogether – and constitutes a much more interesting dimension of analysis, in my view.

discourse; it controls the field of discursivity and therefore defines what counts as a valid argument within it.

This leads us to the second dimension of the link between hegemony and democracy – that of the *content* of democracy. Borrowing an expression from de Tocqueville, Laclau and Mouffe refer to the ‘democratic revolution’ as the event in which ‘the democratic principle of liberty and equality’ first imposed itself ‘as the new matrix of the social imaginary’ (Laclau and Mouffe 2001: 154-155). This revolution ‘introduced something truly new at the level of the social imaginary’: the ‘establishment of a new legitimacy’ (*ibid.*: 155), one that is based on the absolute power of the people.⁴³ ‘Equality’ became an empty signifier that soon affected all layers and aspects of society. The initial critique of political inequality soon was extended to a critique of economic inequality and, crucially, to a critique of gender inequality. This general equivalential logic was captured at an early stage by de Tocqueville:

It is impossible to believe that equality will not finally penetrate as much into the political world as into other domains. It is not possible to conceive of men as eternally unequal among themselves on one point, and equal on others; at a certain moment, they will come to be equal on all points. (cited in Laclau and Mouffe 2001: 156)

Laclau and Mouffe ultimately equate the ‘democratic revolution’ with the ‘egalitarian imaginary’, since the former provided ‘the discursive conditions which made it possible to propose the different forms of inequality as illegitimate and anti-natural, and thus make them equivalent as forms of oppression’ (*ibid.*: 155). The very idea of democracy, for Laclau and Mouffe, is therefore substantively linked to – or even coextensive with – the

⁴³ Note that what Laclau and Mouffe present here is what I have called the core of the ‘ontological legitimacy’ of modernity, in Chapter 1. Contrary to Ricoeur, Honig and myself, however, they do not seem to see the paradoxical effects of this new ontology and never question the basis on which modern democracy attains its stability – for them, modern democracy simply rests on ‘liberty and equality’ as the new matrix of the social imaginary.

struggle against inequalities and subordination. For them, 'the logic of democracy is simply the equivalential displacement of the egalitarian imaginary to ever more extensive social relations, and, as such, it is only a logic of the elimination of relations of subordination and of inequalities' (*ibid.*: 188). This move is remarkable since it attributes democracy with a specific and substantive content and thus turns it into one clearly defined political project amongst others, instead of it being the very terrain on which different political projects can compete under fair terms. It therefore comes as no surprise that the objective of 'radical democracy' is 'the establishment of a new hegemony, which requires the creation of new political frontiers, not their disappearance' (*ibid.*: xv). In the last instance, then, 'every project for radical democracy necessarily includes [...] the socialist dimension - that is to say, the abolition of capitalist relations of production' (Laclau and Mouffe 2001: 192), for only thus can the egalitarian imaginary be completed.

But there is another important aspect in Laclau and Mouffe's conception of democracy that further complicates the picture: the emergence of pluralism as an effect of the equivalential expansion of the egalitarian imaginary. The more cases of inequality and subordination there emerge, the more different and diverse struggles create their own autonomous 'subject positions'. The pluralisation of places of struggle is as much an effect of the democratic revolution as is their unification in chains of equivalence. 'Hence', to employ yet another definition of radical democracy to be found in Laclau and Mouffe's texts, 'the project of a radical and plural democracy, in a primary sense, is nothing other than the struggle for a maximum autonomization of spheres on the basis of the generalization of the equivalential-egalitarian logic' (Laclau and Mouffe 2001: 167). Interestingly, democracy now is conceptually related to the logic of difference, since it is associated with the pluralisation of struggles, while hegemony is related to the logic of equivalence, as we

have seen. Laclau and Mouffe speak 'of *democratic* struggles where these imply a plurality of political spaces, and of *popular* struggles where certain discourses *tendentially* construct the division of a single political space in two opposed fields' (2001: 137). Popular struggles are thus of an antagonistic nature and contain the seeds of hegemonic projects, whereas democratic struggles are subjected to the logic of difference and tend to disarticulate such nascent projects. Somewhat surprisingly, however, Laclau and Mouffe state that 'the fundamental concept is that of "democratic struggle" and that popular struggles are merely specific conjunctures resulting from the multiplication of equivalence effects among the democratic struggles' (*ibid.*).

It is precisely the hope for such a historical conjuncture that defines Laclau and Mouffe's project of a 'radical and plural democracy'. The hope is that 'the frustration of a series of social demands makes possible the movement from isolated democratic demands to equivalential popular ones' (Laclau 2005: 85). And this hope nowadays rests squarely with the so-called 'new social movements', who have introduced 'new antagonisms' to Western society by privileging new empty signifiers and by creating new autonomous spheres of struggle (*cf.* Laclau and Mouffe 2001: 159 ff.). There are anti-racist and anti-sexist movements, the environmental and the peace movement, gay and lesbian rights movements and, most recently, the anti-globalisation movement, to name but a few. Laclau and Mouffe 'conceive these movements as an extension of the democratic revolution to a whole new series of social relations' (*ibid.*: 160). They follow the logic of difference in that they create ever new particular struggles and autonomous spheres of identitarian expression. This being only one side of the radical democratic equation, it is now important to articulate as many of these movements into a chain of equivalence strong enough to form a hegemonic frontier against contemporary capitalism (*cf. ibid.*: 182). The anti-

globalisation movement in particular seems to be predestined to take on the role as the 'movement of movements', as the empty signifier unifying the particularistic struggles in contemporary capitalist societies: 'the anti-globalization movement has to operate in an entirely new way: it must advocate the creation of equivalential links between deeply heterogeneous social demands while, at the same time, elaborating a common language' (Laclau 2005: 231).

This radical democratic project of generating equivalential links between autonomous struggles is countervailed, however, by the great danger 'that particularisms remain pure particularisms and, in that way, become absorbed by the dominant system' (Laclau 2000a: 209). The radical democratic project of Laclau and Mouffe is thus forced to deal with the 'basic political dilemma of our age: will the proliferation of new social actors lead to the enlargement of the equivalential chains which will enable the emergence of stronger collective wills; or will they dissolve into mere particularism, making it easier for the system to integrate and subordinate them?' (*ibid.*: 210). My analysis of the 'agentic deadlock' in liberal democracies suggests that the logic of difference and the tendency towards pluralisation and autonomisation of political struggles is systematically advantaged within liberal democracies, which limits the chances of success of any fully-fledged counter-hegemonic project. However, while I will have more to say about that in the concluding pages of this Chapter, it strikes me as odd that Laclau and Mouffe have hitherto refrained from carrying out their own analyses of the structural conditions of political agency in modern democracies. They invest all their hope in the new social movements of today without properly analysing their chances of success. Ultimately, their concept of 'radical democracy' itself takes on the function of an empty signifier, of a vessel that collects all the hopes for a new and unified struggle against the status quo,

without being equipped with new instruments, tools or strategies to put these hopes to work.

5.1.3. The limitations of hegemony theory

The post-structuralist theory of hegemony, as developed by Laclau and Mouffe, offers invaluable tools for political analysis. Perhaps its greatest merits are its vindication of the ‘political’ nature of the social, of the Derridean notion of ‘undecidability’ as a central category of political thinking, of antagonism as an ineradicable fact of social life, and of ‘decision’ as the fundamental act of the political. Notions like the ‘logic of equivalence’ and the ‘empty signifier’, furthermore, are powerful analytical tools. Nevertheless, there are several accounts on which hegemony theory shows severe shortcomings that impede its potential as a (radical) democratic theory. In what follows I want to focus on two broad areas of concern: the status of ‘hegemony’ as the central category of political analysis and the democratic deficit in hegemony theory.

5.1.3.1. Hegemony or grammar?

My concern with the status of hegemony as the ‘central category of political analysis’ (Laclau 2001: 5) is of both a theoretical and an empirical nature. In theoretical terms I wonder whether hegemony is general enough a notion to serve as the guiding concept of political analysis. My concern here is primarily with its dichotomous nature, which requires the social realm to be split into two antagonistic camps, the hegemonic bloc and the anti-hegemonic project. As Laclau and Mouffe (2001: 129) point out, ‘[a]ntagonism does not admit *tertium quid*. [...] For if we could differentiate the chain of equivalences with regard to something other than that which it opposes, its terms could not be exclusively defined in a negative manner’. Even though there might be various

antagonisms simultaneously criss-crossing the discursive field, there can only be one hegemonic bloc at any one time. This binary setup bears the danger of artificially limiting the scope of political analysis in that it unduly simplifies the complexity of political conflict in contemporary societies.

Hegemony is one of a family of concepts, used mainly in post-structuralist theories, which all refer to some kind of underlying structure of meaning. In all cases, this structure controls the very possibilities of signification, of articulation and, ultimately, of politics. The other members of that family are 'discourse', 'grammar' and the 'symbolic'.⁴⁴ While hegemony certainly has an important part to play in this family, it is not at all clear why it should be its head.⁴⁵ The concept I myself privileged, in Chapter 2, for theorising social change and transformation is that of grammar. While hegemony remains an important concept to describe and analyse certain dynamics of power and antagonism, I regard grammar as a concept that enables a more general understanding of the 'bounds of sense' that organise the realm of discourse and politics.

Drawing on Norval, I have defined grammar as the horizon delimiting what is possible in any given context. It organises and stratifies the social imaginary. Grammar itself is not a hegemonic force or a discursive formation, but it is the *regulative effect* of such forces and formations. Grammar is the intricate network of rules that results from the overlap of countless discourses, from the push and pull of hegemonic forces, from the sedimentation

⁴⁴ Another – perhaps more distant, but still very important – member of that family is the sociological concept of 'habitus' (e.g. Bourdieu 1977).

⁴⁵ It is interesting to note that Laclau himself does not always distinguish clearly between some of these concepts. On one occasion he seems to conflate the concepts of social logic, discourse, grammar and the symbolic, when he characterises 'social logic' as 'a rarefied system of objects, as a "grammar" or cluster of rules which make some combinations and substitutions possible and exclude others. It is what, in our work, we have called "discourse", which broadly coincides with what in Lacanian theory is called the "symbolic"' (Laclau 2000c: 76-77). This 'clustering together' of such important concepts is criticised as problematic by Butler (2000: 170). On another occasion, Laclau equates the concept of grammar with that of discourse (Laclau and Bhaskar 1998: 9).

of social practices and from the ossified remnants of historical events and constellations. The concept of grammar accounts for the fact that the symbolic order of societies is usually structured by more than just one seemingly 'hegemonic' discourse. Grammar, thus, is the regulative effect of the simultaneity of myriad discourses and practices and their cultural and social sedimentations. It is always possible that certain discursive formations within that pool of forces assume a hegemonic status in the strict sense that is advocated by Laclau, but their force is rarely as absolute as to cancel the grammatical efficacy of other social sediments. While defining 'neo-liberalism' as the hegemony against which a 'radical democratic' project is to be formed may be expedient in political terms, it is not very helpful in analytical terms: understanding neo-liberalism as a hegemonic discourse first requires an understanding of the political grammar in which it is embedded. Without such a 'grammatical' level of analysis, the political analyst runs the risk of unduly dividing the field of discursivity into clear-cut dichotomies.

This leads us to the second aspect of my critique. The binary nature of the concept of hegemony does not do justice to the empirical reality of most political struggles in contemporary societies. It is a conspicuous fact that whenever Laclau explains the functioning of the equivalential logic he uses the examples of 'repressive regimes' (Laclau 2001: 9) or situations of 'extreme oppression' (Laclau 2000b: 302). His preferred examples are the Tsarist regime in pre-revolutionary Russia (Laclau 2000b; 2001; 2005: 130), the military dictatorship in Argentina (Laclau 2005: 214 ff.) and the Apartheid regime in South Africa (Laclau 1990). The reason for that is that the logic of equivalence works best under conditions when a clear frontier effect can be established between a pure antagonist (the oppressive regime) and a diversified civil society. The diverse forces of civil society are equivalent to each other with respect to their shared opposition to the antagonist and can

form a counter-hegemonic project as soon as they articulate their equivalence around an empty signifier like 'justice' or 'freedom'. One might add to this narrative, however, that the logic of equivalence works well *only* under conditions of oppression or when a political order starts to crumble and offers the opportunity for radical change. Under conditions of democracy, by contrast, when the political order is not perceived as openly oppressive, usually no anti-systemic frontier long and stable enough to extend to more than just the 'activist' sectors of society will emerge. Laclau writes:

In a situation of extreme oppression – the Tsarist regime, for instance – workers start a strike demanding higher wages. The demand is a particular one, but in the context of that repressive regime it is going to be seen as an anti-system activity. [...] The presence of a frontier separating the oppressive regime from the rest of society is the very condition of the universalization of the demands via equivalences [...]. (2000b: 302)

However, I believe that Benjamin Arditi is right when he argues that

[i]t is during these tumultuous times of upheavals when the stakes are high and people find it hard not to take sides that one might actually visualize the metaphoric surplus of particular struggles and how this surplus seems to allow us to experience a superordinate identity. [...] Barring these extraordinary junctures that come closer to a collective *carpe diem* than to the manifestation of the day-to-day travails of piecing together a counter-hegemony, people go on with their lives by striking for better wages, seeking a promotion, attending classes, complaining about the quality of public services or discussing politics and thinking of ways to change the world. (Arditi 2007: 211-212)

In other words, the chances of setting off a successful counter-hegemonic struggle in the Laclauian sense within a liberal democracy are rather slim. Equivalential chains form when a regime is to be overthrown and usually dissolve immediately after that aim is achieved. They form to change the political order, to empty out the place of power, but they are difficult to sustain around the more long-term objective of deeply transforming society *within* a democratic order. Laclau seems to concede this point when he writes that in a 'highly institutionalized society, equivalential logics have less terrain on which to operate'

(2005: 191) and that ‘the construction of a long-term hegemony is a very different matter’ from overthrowing a repressive regime (*ibid.*: 186).

The concept of hegemony applies the binary logic of ‘either/or’ to society at large and is therefore applicable only to situations where an entire society is at the crossroads between two distinct and antagonistic political projects or trajectories of development. The goal is the hegemony of one clearly distinct project. The concept does not work that well, however, in the register of partial, transformative change where the idea is to shift or twist a given trajectory so that the nature of society will change without assuming an entirely new identity. Hence, I argue that *within* liberal democracies, the most productive category for the analysis of political and societal change is that of grammar, while the logic of hegemony remains an important tool for the analysis of political turning points and regime changes. As an analytical category, hegemony is good at explaining transitions from repressive to democratic orders or vice versa, but it is not a very powerful tool for analysing change within an existing order. I suggest, however, that the notions of grammar and hegemony are not mutually exclusive but should instead be integrated into a comprehensive theory of social and political change.

5.1.3.2. The democratic deficit in hegemony theory

Laclau and Mouffe stress that ‘one can see hegemony as a theory of the decision taken in an undecidable terrain’ (2001: xi). If hegemony theory is to be regarded a theory of ‘radical democracy’, however, we have to ask in what ways the notion of hegemonic decision-making can be reconciled with the concept of democracy. I have already pointed out some difficulties in doing so: for one, the fact that Laclau grants every hegemonic power democratic legitimacy by virtue of its hegemonic success, as long as it acknowledges the

contingency of its hegemonic position, proves to be a rather narrow definition of democracy. Secondly, the unilateral equation of democracy with the 'egalitarian imaginary' means that other (conservative, liberal, right-wing, etc.) views are being dismissed *ex ante* as undemocratic – a move that could itself justifiably be characterised as undemocratic. By equating equality with democracy itself, one of the undecidable contents to be dealt with in a democracy is declared to belong to the form of democracy itself. It is interesting to see, in this respect, that while Laclau and Mouffe make such extensive use of Lefort's formula of democracy being a society in which the place of power is empty, they do not seem to accord the same 'emptiness' to democracy as a means of decision-making.

Over all, radical democracy appears to be a project to establish a *particular* long-term hegemony – the hegemony of the egalitarian imaginary. The role of decision-making is not theorised in a generalised, 'neutral' sense, as a mode of political agency within a democratic framework, but as a necessity to win the 'war of position'. Hegemony, as Laclau points out, means 'the prevalence of the ideological over the institutional' (2000c: 49). Hence, hegemony theory lacks a conception of a neutral ground that is shared by everyone, of a procedure or institution that represents the act of decision itself. Instead, in as much as the war of position is a war for discursive superiority, for the power of articulation, the decision is always already part of the successful hegemonic bloc. To 'decide' in this context does not mean to eliminate the option that was not selected, but to deny the option its status as option in the first place. While there is nothing wrong with this as a strategy to win political hegemony, it is a different question whether it can be considered democratic. What is completely lacking from the theory of hegemony is thus the notion of democratic *procedures*, which are usually conceived of in terms of 'neutral' institutions.

Aletta Norval (2004: 141) is therefore right when she contends that the approach of Laclau and Mouffe 'concentrates on the construction of hegemonic outcomes and as a result, does not give sufficient consideration to the extent to which such "decisions" can in fact be described as democratic.' I agree with her that this 'lack of attention given to the need to institutionalize democratic arrangements' (*ibid.*: 160) is a major shortcoming of radical democracy. As a result of this reluctance to think in terms of democratic institutions it is very difficult to identify 'the *differentia specifica* of a democratic hegemony' (Norval 2000: 230) and to determine in what ways 'democratic and authoritarian forms of hegemony differ' (*ibid.*: 229).

There is, however, another problem that arises from hegemony theory's inherent anti-institutionalism, a problem that is of strategic rather than theoretical nature: without offering an institutional link between hegemony theory and democratic theory, radical democracy is left with few (if any) alternatives to conventional activism. Laclau and Mouffe present as a *strategy* what they simultaneously identify as the very *nature* of politics, namely the articulation of chains of equivalence in opposition to an existing hegemony. Thus, they *describe*, on the one hand, what social movements have been doing for more than two hundred years, and at the same time they *prescribe* that very practice as a strategy within a novel form of democracy. What the project of 'radical democracy' ultimately boils down to, then, is little more than the 'strategy' of 'supporting new social movements and counter-hegemonic practices' (Mouffe 2009: 236). While there is nothing wrong with this approach from the point of view of political activism, it is a somewhat disappointing result for a political theory of such internal complexity.

5.2. The theory of agonistic pluralism

The democratic deficit discussed above is a feature mainly of Laclau's account of hegemony theory. Chantal Mouffe, for her part, has started to take this problem seriously and embarked on a project aiming to reconcile hegemony theory with the ethical and institutional framework of liberal democracy. As we will see shortly, however, her project of 'agonistic pluralism' is equally fraught with ambiguities and conceptual difficulties that undermine both its theoretical and practical potential.

Whereas Laclau's approach is committed to the notion of antagonism in its exclusive and radical sense, Mouffe eliminates the rough edges and violent potential of the concept by transforming it into the more peaceful and pluralistic idea of 'agonism'. Agonism 'involves a relation not between enemies but between "adversaries", adversaries being defined in a paradoxical way as "friendly enemies", that is, persons who are friends because they share a common symbolic space but also enemies because they want to organise this common symbolic space in a different way' (Mouffe 2000: 13). Hence, '[a]dversaries fight against each other, but they do not put into question the legitimacy of their respective positions. They share a common allegiance to the ethico-political principles of liberal democracy' (Mouffe 1999b: 4). As a consequence, 'the aim of democratic politics is to transform *antagonism* into *agonism*' (Mouffe 2000: 103).

Whilst remaining committed to the theory of hegemony as developed jointly with Ernesto Laclau, Mouffe's understanding of the political as the realm of decision is also deeply influenced by the thinking of Carl Schmitt, who defines the political in terms of friend-enemy relations. As Paul Hirst (1999: 9) points out, for Schmitt, the political 'consists not

in war or armed conflict as such, but precisely in the relation of enmity: not competition but confrontation. It is bound by no law: it is prior to law'. While Schmitt's understanding of politics as being 'prior to law' makes him reject liberal democracy as an intrinsically apolitical regime, Mouffe's project consists precisely in reconciling the antagonistic conception of the political with the idea of a shared 'ethico-political' space in which decisions in the strict sense of the term can be made collectively. Agonistic pluralism thus involves the acceptance of a paradox: that we need both a vibrant pluralism in a shared democratic framework and the moment of decision occasionally eliminating that pluralism by way of (partially) fixing the meaning of the 'demos'. Thus, Mouffe insists that '[t]he logic of democracy does indeed imply a moment of closure which is required by the very process of constituting the "people". This cannot be avoided, even in a liberal-democratic mode; it can only be negotiated differently. But this in turn can be done only if this closure, and the paradox it implies, are acknowledged' (1999c: 43).

Mouffe's main ambition is to defend her notion of agonistic pluralism against those models of democracy that deny the political character of democratic decision-making, such as the aggregative and deliberative models of liberalism.

Without a plurality of competing forces which attempt to define the common good, and aim at fixing the identity of the community, the political articulation of the demos could not take place. We would be in the field either of the aggregation of interests, or of a process of deliberation which eliminates the moment of decision. That is - as Schmitt pointed out - in the field of economics or of ethics, but not in the field of politics. (Mouffe 1999c: 51)

Mouffe's criticism of deliberative democracy runs along similar lines to the account I presented in Chapter 4, according to which deliberative democracy tends to favour the agentic operator of 'solution' over that of 'decision', in that it eliminates the 'undecidability' of the conflict in order to establish a 'common ground' on the basis of

which a mutually acknowledged ‘problem’ can be defined (*cf.* Mouffe 2000: 31). Accordingly, Mouffe argues that ‘a fully inclusive “rational” consensus’ is simply impossible, since ‘every consensus is based on acts of exclusion’ (Mouffe 2005: 11).

Similarly, her rejection of the aggregative model of liberalism is based on arguments I have extensively rehearsed in Chapter 4. ‘For the liberals’, she writes,

an adversary is simply a competitor. The field of politics is for them a neutral terrain in which different groups compete to occupy the positions of power; their objective is merely to dislodge others in order to occupy their place. They do not put into question the dominant hegemony and there is no attempt at profoundly transforming the relations of power. It is merely a competition among elites. (2005: 21)

Agonistic pluralism, on the other hand, involves ‘a struggle between opposing hegemonic projects which can never be reconciled rationally. The antagonistic dimension is always present, it is a real confrontation but one which is played out under conditions regulated by a set of democratic procedures accepted by the adversaries’ (*ibid.*).

The problems with Mouffe’s model of agonistic pluralism, however, start right here, since she is not willing to complement her general definition of the model with any institutional or procedural innovations: the ‘set of democratic procedures accepted by the adversaries’ is nothing else but the institutional framework of liberal democracy in its traditional, representative layout. Hence, agonistic pluralism appears to be little more than a certain ‘style’ of making politics within the parliamentary system, a matter of attitude rather than institutional design. This problem can be further elucidated by pointing to Mouffe’s reference to the work of Elias Canetti:

'Elias Canetti is one of the authors who understood perfectly that the establishment of "agonistic" relations was the task of democratic politics. [...] He makes us grasp the important part played by the parliamentary system in the transformation of antagonism into agonism and in the construction of a we/they compatible with democratic pluralism.' (2005: 21, 23). She then cites Canetti's vindication of the majority decision in *Crowds and Power*:

No one has ever really believed that the majority decision is necessarily the wiser one because it has received the greater number of votes. It is will against will as in war. Each is convinced that right and reason are on his side. [...] But the counting of the vote ends the battle. [...] The member of an outvoted party accepts the majority decision, not because he has ceased to believe in his own case, but simply because he admits defeat. (Cited in *ibid.*: 23)

But instead of grasping the potential of this insightful passage to demand new instruments of democratic decision-making that would further the agonistic dimension in democratic pluralism, Mouffe reads the passage simply as a vindication of the parliamentary system, of the same system that is defended by the proponents of the aggregative model of democracy as a forum for the negotiation of pre-established rational interests. Mouffe contents herself with the same institutional setup as her fiercest adversaries without even considering the possibility that the parliamentary system in its traditional form might be intrinsically linked to their model of democracy.

If the preconditions of agonistic pluralism are already fully developed in the parliamentary system of liberal democracy, as Mouffe seems to suggest, the question arises as to what is the *differentia specifica* of her model vis-à-vis the existing and prevalent model of liberal democracy. In what ways does her vision of a '*conflictual* pluralism' (1999: 5) differ from the daily routines of political contestation as we know them from modern parliamentary systems?

The answer to these questions can be found, I submit, in Mouffe's narrow conception of the nature of modern democracy. For Mouffe, 'it is important to distinguish liberal democracy from democratic capitalism and to understand it in terms of classical political philosophy as a *regime*, a political form of society that is defined exclusively at the level of the political, leaving aside its possible articulation with an economic system' (2000: 18). Mouffe stresses that liberal democracy results from the articulation of two different traditions – political liberalism on the one hand and the democratic tradition of popular sovereignty on the other (*ibid.*). While this is no doubt a correct assertion, it is a grave mistake to restrict the notion of that 'articulation' to the narrow domain of normative thought, as I have argued in Chapter 1, which is precisely what Mouffe is doing. For her, what counts is that the liberal notions of 'rule of law' and pluralism are somehow – paradoxically, as she puts it – reconciled with the democratic notion of popular sovereignty, which involves the necessity of making decisions and thus of exclusion. Liberal democracy, according to her, has managed to do so by developing the representative, parliamentary model of decision-making. Parliamentary representation, according to this view, is the solution to the paradox.

What this account of liberal democracy completely misses, however, is the fact that the very possibility of representation is dependent on a fundamental precondition: that a certain *type* of society is erected in which the generation of societal reality is epistemically shielded from its administration. While Mouffe might be right that capitalism is not *necessarily* the only economic system supporting modern democracy, it should be clear nevertheless that the liberal democratic framework is based on a very particular construction of society, dictating a certain way of separating the economic from the

political sphere. As I have argued in Chapter 1, the concept of representation can only continuously work if the represented are united with the representatives on the ‘receiving’ end of reality, while the ‘source’ of factual reality is shielded from them by an epistemic veil of opacity. The most fundamental consequence of this is that the sovereignty of the represented/representatives is severely circumscribed in that it extends not much further than to an ‘administrative’ role without being able to interfere with the most fundamental modes of the generation of societal reality.

That way, the articulation of liberalism and democracy was not done on equal terms but rather gave the liberal paradigm a structural and largely hidden advantage over the democratic paradigm. It is thus no coincidence that parliamentary democracy has been described as an aggregative model of democracy, brokering different interests in administering our shared capitalist reality. And it is more than astonishing to see an allegedly radical, post-Marxist theorist like Chantal Mouffe limit her intellectual scope to that strand of normative theory, thereby accepting the very terrain of the liberal paradigm as her battleground. But it explains why she is describing the same model of democracy as ‘agonistic’ that others have described as ‘aggregative’: she seems to hope that by preaching ‘agonism’, liberal democracy might become more ‘radical’.

Mouffe’s blindness towards the epistemic dimension of liberal democratic legitimacy has a reason, of course: it is rooted in her and Laclau’s protracted struggle against the economic determinism in classical Marxism. For many years, their main objective was to free the notion of the ‘political’ from its essentialist shackles, from the quasi-metaphysical dogma of ‘historical necessity’. In that they established the political as the final impossibility of closure, as the ineradicability of antagonism, they uprooted everything that might tie the

political to some underlying principle or historical process. As a consequence, they refused to acknowledge any structural component of modern democracy that could inhibit the open play of antagonistic forces. What they did not see is that there is an alternative between economic determinism and the radical contingency of the political. Limiting their account of modern democracy to the ‘symbolic’ reading offered by Lefort, they did not take into account that the historical formation of liberal democracy involves a construction of its legitimacy that requires a very specific articulation of the economic and political spheres. This acknowledgment of the epistemic dimension of liberal democracy, however, is far from presenting anything like an economic determinism – it only states a certain causal relation between the opacity of the market and the stability of the liberal democratic model. Disregarding this causal relation means misrepresenting the nature of liberal democracy and, by extension, misjudging the opportunities for political and societal change.

It is this very last point on which I want to close. When Mouffe declares that the aim of the agonistic model of democracy is ‘a profound transformation of the existing power relations and the establishment of a new hegemony’ (2005: 52), it should now be clear that her narrow conception of liberal democracy constitutes the greatest obstacle to the achievement of that very aim. For within the conventional model of liberal democracy there are intrinsic limits to a ‘profound transformation of the existing power relations’, since state agents will always remain dependent upon the dictates of epistemic legitimacy and will not be able to interfere radically with the economic system without dismantling the liberal democratic order itself. The ‘establishment of a new hegemony’ can therefore mean little more than the achievement of electoral successes in parliamentary elections which might result, of course, in a more egalitarian administration of the shared capitalist reality in terms of the re-erection of the welfare state or the further ‘ecological

modernisation' of the economy. While these are legitimate and respectable political goals, I doubt that they deserve to be called 'radical'.

Overall, Laclau and Mouffe's project of radical democracy is stuck in a tragic dilemma: on the one hand it dreams of a new hegemony of radical, egalitarian politics, while on the other hand it prefers to stick with the established institutions of liberal democracy, which quite obviously will not get us there. This is unfortunate since Laclau and Mouffe have elaborated an impressive array of analytical tools and theoretical concepts, some of which could guide the way to a truly 'transformative' model of democracy. It will thus be my task in the final Chapter 6 to propose an institutional innovation that activates some of these concepts like the 'logic of equivalence' and the decision in an undecidable terrain, in an attempt to overcome the 'agentic deadlock' in liberal democracy.

Part III: Transcending the Limits to Change

Chapter 6: The White Door

My main concern in this study has been with the transformative capacity of liberal democracies. I have argued thus far that this capacity does not seem to be very great. In this Chapter, however, I want to investigate to what extent the limits to purposive change in liberal democracies can be transcended and to present a democratic innovation that might contribute to this aim. Let me first, though, briefly recapitulate my central argument of the limits to change in liberal democracy.

6.1. The problem: breaking the agentic deadlock

Within my conceptual framework, I defined transformation as the result of changes in political grammar. Since the function of political grammar is to ‘set the bounds of sense’ in a polity, changing grammar means dislocating the boundaries between the possible and the merely intelligible within the political imaginary. The political imaginary is full of discursive elements, many of which, while being intelligible to large parts of the polity, are not considered possible in terms of their actual political realisation. This fundamental distinction is the work of political grammar, which itself is a structural compound of explicit and implicit rules resulting from the simultaneous effects of various dominant discourses and hegemonic forces.

There is no *direct* way of purposively changing political grammar. Grammar changes when it has to accommodate discursive elements that impose themselves onto societal reality as a

result of *events* – that is, of changes that cannot be explained from within grammar. Grammar then has to accept them as possible simply because they are, and has to incorporate them into the complex pattern of sense that constitutes the realm of the ‘possible’. As a consequence of such a shift, other elements, too, will become more likely to be regarded as possible, while again others might now be discarded. Such events can be the result of political action, but there is no guarantee that political action will lead to an event that will actually rupture grammar and force it to accommodate a hitherto impossible element. This leads us directly to the problem of political agency.

In Chapter 3, I identified three logically distinct modes of political agency or ‘agentic operators’: decision, choice and solution. An assessment of their respective transformative powers showed that ‘solution’ is the agentic operator with the lowest transformative potential, as it operates strictly within a singular form of rationality instead of negotiating between different rationalities. The transformative power of the agentic operator ‘choice’ is also limited because it lacks the power to discard options. In principle, market choices could accumulate into something like events (in that certain classes of politically relevant products unexpectedly gain or lose massive shares of the market) but for reasons I have discussed in Chapter 3, they more often reflect political grammar than challenge it.

The agentic operator ‘decision’, finally, has all the credentials of a transformative force: it selects between different (‘undecidable’) rationalities and eliminates the options that are not selected. Decisions are ruptures by definition. Decision thus is a very effective and powerful agentic operator, but also a very controversial and potentially dangerous one, especially in the context of democratic politics: a decision necessarily alienates those championing the discarded options and is therefore an antagonistic mode of agency.

Moreover, such alienation draws attention to those deciding and highlights their accountability for the consequences of their acts. If those deciding are few and if they are known to the public, the burden of justifying decisions might become too heavy for them to bear. This is a fundamental problem for representative democracy, where a few elected representatives are supposed to decide for all. It is a structural and logical problem that ultimately defines the very nature of liberal democracy.

I have called this problem, in Chapter 1, the ‘political paradox’ that lies at the core of all modern democratic politics: while representation is an unavoidable mechanism for the democratic government of large and complex polities, the representatives and the represented are eternally split by the need for the former to decide on behalf of the latter. What this entails is an irresolvable contest for sovereignty that can become violent if antagonisms are involved: are the represented or those who make the decisions the sovereign?

Liberal democracy solves the problem of decision by systematically avoiding it. The only way of suspending the destructive political paradox, it turns out, is to eradicate the need to make decisions in the antagonistic sense of the word. This, in turn, can only mean that the contours and main facts of societal reality itself can no longer be the content of democratic will-formation. Reality must be generated ‘outside’ the representative relation and representation must be limited to its administration. The only way societal reality can be generated outside a collective will, in a democracy, has so far been by the forces of the market. Hence, societal reality in liberal democracy is predominantly produced as the aggregate effects of the agentic operator ‘choice’, and the resulting facts are administered and managed in the mode of ‘solution’. Of course, some conflict remains as to how best to

manage the facts of an opaquely generated reality, but the ideological undecidability inherent to these conflicts is strictly limited to the question of different managerial and administrative approaches. Hence, in a liberal democracy, the task of representatives is to find solutions to rationally identifiable problems and political conflict is confined to the question of how best to solve these problems. This alleviates the legitimating pressures on representatives and effectively suspends the paradox of politics. Consequently, liberal democracy draws its legitimacy from avoiding the need to legitimate societal reality and not from its successful legitimation. I have called this type of legitimacy ‘epistemic’ due to its origin in the organisation of the perception of societal reality.

The result of this historically unique construction is what I have called, in Chapter 3, the ‘agentic deadlock’ that is inherent to the liberal democratic model. Government strictly confines itself to the agentic mode of solution and avoids creating facts that might evoke the paradox of politics; parliament is generally subjected to the same logic – oppositional parties may sometimes call for ‘decisions’ in order to emphasise their difference from the ruling parties, but as soon as they enter into government, they are equally subjected to the dictate of ‘epistemic legitimacy’. Furthermore, the grammar of parliamentary debate is that of the strictly possible: demanding the impossible is generally regarded as oppositional ‘activism’. Demands for more radical change that would require decisions are generally deflected to the realm of the market and thus to the agentic mode of ‘choice’. Hence, civil society organisations and intellectuals are the only forces left in the position to credibly demand decisions and to credibly uphold visions of ‘otherness’, that is, of undecidable alternatives to existing societal reality. However, these forces in civil society do not have an independent channel of political agency. Their demands, if directed towards government or parliament as the legitimate democratic decision-makers, get translated into

‘problems’ within the administrative rationality to which ‘solutions’ are sought within the sphere of the strictly ‘possible’. Or they get re-framed in terms of responsibilities of the individual citizens, and translated into behavioural, ethical guidelines and thus into the mode of ‘choice’, where they lose their collective and decisive force.

As a consequence, the call for decisions increasingly falls silent even within the public sphere: those actors within civil society who want to have an ‘impact’ on politics need to frame their demands either in terms of solutions or of choices. Civil society actors are forced to choose the logic of government or the logic of the market. Dreaming about alternatives is left to artists and to a few intellectuals and academics. Their inadvertent function is to instil the belief that there are alternatives, to create the illusion of popular sovereignty. Unsurprisingly, this functional differentiation within the public sphere has important consequences for the content and structure of the political imaginary within liberal democracy: most importantly, there is very little circulation of elements between the spheres of the possible and of the intelligible. The spheres are more or less self-contained and detached from each other. Civil society forces - those forces, that is, whose function it should be to elaborate intelligible alternatives – migrate to the realm of the possible in order to have any chance of impact. There clearly is a constant ‘brain-drain’ from the sphere of intelligible alternatives towards the techno-administrative sphere of the possible. Those elements that are intelligible-but-impossible get only little support from influential actors in society and there is hardly any structured effort to create the necessary events to make such elements ‘possible’. This is not surprising, since it is extremely difficult to determine what forms such events could take within the institutional framework of liberal democracies – knowing that political decisions are all but impossible, it is hard to amass the necessary public support for ‘impossible’ demands whose chances of success are

minimal. Demonstrations, petitions and rallies are the usual strategies to create the chances of an event to happen, but these techniques wear out if all they achieve is the translation of the demand into a techno-administrative problem.

This is the reason why the transformation of liberal democratic societies is left to forces that are neither democratic nor political in the strict sense. The events triggering changes in political grammar come from scientific and technological progress, from economic developments and from world politics. In sum, they come from sources outside the democratic process, whereas democratic will-formation is limited to questions of reactions to such ‘autopoietic’ change – reactions, of course, that must be strictly confined to the realm of the possible. Liberal democracy does not provide for means of connecting the possible and the intelligible in any structured and democratic way. It does not offer mechanisms for the people to deliberately and purposively influence the direction of societal transformation. This is the problem I have tried to capture and to analyse in this thesis, and now it is time to offer a tentative solution to this fundamental shortcoming.

6.2. Five requirements for democratic transformation

Having reassessed the problem of agentic deadlock in liberal democracy, let us now consider the requirements any innovation aiming at democratising processes of transformation must meet.⁴⁶ I argue that five requirements follow logically from my analysis of agentic deadlock.

⁴⁶ In his recent book *Democratic Innovations* Graham Smith assesses democratic innovations by considering ‘the extent to which they realise four explicitly democratic goods, namely *inclusiveness*, *popular control*, *considered judgement* and *transparency*’ (Smith 2009: 12, original emphases). It is interesting to note that *transformativity* as a standard by which to assess the capacity of the innovation to actually have an impact on societal change, is not part of that list and is in fact rarely considered a typical ‘democratic good’. I regard this as a clear deficit in democratic theory which I try to redeem.

Creating a new institution. The first requirement is that any innovation to increase the transformative potential of liberal democracy must be of institutional nature. The very fact that demands for change originating from civil society are deflected into the modes of solution and choice by the agentic regime of liberal democracy means that the scope of transformative politics cannot be expanded without breaking these deflective mechanisms. Any attempt at doing so without the help of institutions that are designed for that purpose will be defeated by those very mechanisms. It is a vicious circle that can only be broken by the careful design and implementation of one or more new democratic devices.

Making decisions. The purpose of any such institutional mechanism must be to introduce the possibility of making decisions within the liberal-democratic framework. In that sense, the aim of designing a new democratic institution would be to balance out the agentic regime of liberal democracy and to reduce the predominance of solution and choice in generating change.

Involving the Public Sphere. As we have seen, there is a structural reason why the liberal-democratic state is ill-prepared to be the locus of decision-making in the strong sense of the term. Since any antagonistic decision inevitably undermines the legitimacy of representative bodies, forcing them to make decisions would involve the risk of structurally destabilising the entire democratic order. Hence, the new institution of decision-making must be linked to a different sphere, and the only logical candidate for that is the public sphere. This means that the new institution must be at the disposal of the general public, while its democratic functions must be constitutionally guaranteed by the state. Importantly, the intricate epistemic architecture of liberal democracy would not be impaired by decisions made in the public sphere, since these decisions would count as

additional ‘given facts’ to the representative bodies of the state. The latter would be in the convenient position to ‘react’ to such decisions – in no way would they be perceived to be accountable for the ruptures any such decision would entail.

Connecting the possible and the intelligible. In order to have any transformative effect, the democratic institution located in the public sphere must be designed in such a way as to allow for the boundary between the possible and the intelligible to become more permeable. This requirement is partly fulfilled already by the fact that decisions are being introduced to the democratic process. However, much depends on the specific way in which decisions are made in order for them to unfold a transformative potential. What counts is that the zones of the intelligible and the possible are connected in such a way that semi-possible elements have a better chance of being incorporated into grammar by decisions. Only if the elements imposed on grammar already show important features of possibility will they have a chance of being incorporated and thus of changing grammar. Arbitrary decisions that impose barely intelligible demands onto grammar would only create incommensurabilities in terms of ruptures that cannot be fixed by grammar and that would hence destabilise the democratic system’s integrity. Such decisions would either have to be revoked eventually or would leave ugly wounds in the texture of sense that would take a long time to heal. Grammar would be broken rather than changed and it might cease to function. To be sure, this requirement should not be misunderstood to mean that only demands that are close to the status quo should be decided on – on the contrary, demands can show strong features of possibility even if they are little short of revolutionary, for example if they are supported by a large majority and only rendered impossible by the narrow administrative rationality of the liberal-democratic state. What counts is that decisions must ‘make sense’ within the historical and societal context in

which they are made. The task of the new democratic institution is to make sure that what ‘makes sense’ is not limited to what is ‘possible’ in the status quo. Hence, for any institutional arrangement to increase the transformative potential of liberal democracy without jeopardising its systemic integrity, much attention must be paid to ‘the “messy” and detailed task of institutional design’, as Graham Smith (2009: 8) puts it.

Enabling strategic action. This last requirement is logically linked to the one above. If the aim is to democratise processes of transformation, the political forces involved need to be given the possibility of acting strategically on the question which elements they want society to decide upon. This requirement involves the idea that democratic politics is now expanded to mean not only the ‘art of the possible’⁴⁷ but also to include the ‘art of the impossible’. The arena of democratic contestation is thus expanded to include the vast realm of the intelligible-but-impossible discursive elements. Here is where the direction of future transformations is decided; here is where different political actors, alliances and movements will engage in the creation of new ideas and in campaigns to make some of them possible and to repel others. The new democratic institution should be designed in such a way as to allow political actors to pursue medium- to long-term goals in their activities. Transformation should not be the result of ad-hoc-decisionism, but should be subject to purposive and strategic action that involves the planning of campaigns and the creation of alliances. In practice, this means that political creativity, imagination and activity should cover the entire field of intelligible elements. It should make sense for civil society actors (including political parties) to create new elements and to support ideas even if they are not (yet) semi-possible but still need to gain broader acceptance. The public

⁴⁷ A definition attributed to German *Reichskanzler* Otto von Bismarck (1815-1898).

sphere should be the arena where political ideas and demands are born, raised, supported and fought – and some of them ultimately decided upon.

6.3. Transformative requirements and democratic theory

Before we can engage in the design of a democratic institution that ticks all the above boxes, it seems prudent to briefly reassess what the three main strands of democratic theory discussed in this thesis (aggregative, deliberative and radical) have to offer with regard to these transformative requirements. *Table 6.1* presents an overview of the relations between theories and transformative requirements.

Theories/ Requirements	aggregative	deliberative		radical
		micro scale	macro scale	
Institution	Yes	Yes	No	No
Decision	(Yes)	No	No	(Yes)
Public sphere	No	No	Yes	Yes
Permeability	No	No	Yes	(Yes)
Strategic action	Yes	No	No	Yes

Table 6.1: Democratic theories and requirements of transformation

The first thing to note is that all theories fulfil one or more requirements, but none fulfils all. Perhaps surprisingly, aggregative democratic theory ticks two and a half of the five boxes, which is more than the discussion in Chapter 4 would have suggested. This is, however, for ‘descriptive’ rather than for ‘normative’ reasons. The aggregative approach takes the existing liberal democratic institutions for granted and analyses their efficiency in producing outcomes using economic means of analysis. While the dominant agentic operator in aggregative theory is ‘choice’, the theory acknowledges that, unlike in the

marketplace, the result of democratic aggregation (i.e. of counting votes) is a decision. This fact, however, is regarded a source of worry rather than an opportunity, since the central question for aggregative theorists is whether individual preferences can be adequately aggregated into collective outcomes at all without misrepresenting them. Furthermore, change and transformation are not valid categories within this approach, since it works with 'given' preferences: society changes inasmuch as individual preferences change. There is no conception of a permeability between the 'possible' and the 'intelligible', since these are simply the result of the aggregation of 'private' attitudes. Strategic action, however, is accepted as an important element in any realistic account of politics.

An interesting outcome of this comparison is that deliberative democratic theory is split on most counts along the line of its internal division into 'micro' and 'macro' theories. Following my discussion of deliberative democracy in Chapter 4, I call 'micro' theories those aiming at generating binding outcomes in 'mini-publics', whereas 'macro' theories are those aiming at open and free discourse in the public sphere without the need to arrive at a binding outcome. Micro theories require institutions, whereas macro theories do not. Nevertheless, neither theory actually appreciates the concept of decision, since the 'decisions' taken in mini-publics tend in fact to be 'solutions' within the zone of the possible. Micro-theories do not dedicate a prominent role to the public sphere since what counts are the outcomes of the deliberations in the mini-publics; for macro-theories, however, the public sphere constitutes the proper realm of deliberation. Perhaps the most important difference between the two strands regards the permeability between the possible and the intelligible. While permeability is low in micro-accounts of deliberation due to their being geared towards outcomes and thus towards convergence in the zone of

the possible, the great advantage of macro-accounts of deliberation (in particular Dryzek's [2000] account of *discursive* democracy) is that they allow for the boundary between the intelligible and the possible to be suspended, at least to some degree. In fact, what counts in discursive democracy is for arguments to be *intelligible* – whether they will be *possible* in the end or not will be the result of open debate. This *critical* emphasis of discursive democracy, which emancipates the intelligible from the possible, makes it valuable for our purposes in that it posits the permeability of the boundary between the possible and the intelligible at the centre of democratic reasoning. However, this achievement is severely compromised by the lack of institutional implementation. Without it, discursive democracy remains little more than an idealistic ethos of communication that will have little import on democratic reality. Another serious shortcoming of both strands of deliberative democracy is that they deny the legitimacy of strategic action, and thus choose to deny the very nature of everything political.

The only democratic theory that is tentatively positive on all but one count is radical democracy. As was shown in Chapter 5, however, the fact that it refuses to grant itself an institutional outlook partly undermines the positive counts for the requirements 'decision' and 'permeability'. Without an institution of decision-making, the 'decision' in radical democracy is forever withheld and congeals in the frontier between the 'possible' hegemony and its 'intelligible' counter-hegemonic antagonist. Only a total victory of the counter-hegemonic project and a total abdication of the possible could end this 'war of position'. This dichotomous setup of radical democracy also severely impairs its potential to blur the lines between the possible and the intelligible. Since the war of position can be seen as a war between the possible and the intelligible, it in fact reinforces this frontier. The hegemony of the possible can only be overcome by virtue of imposing the intelligible

as the new possible, that is, by virtue of counter-hegemonic victory. The interference with the boundary between the possible and the intelligible thus comes as a *result* of victory rather than being its *precondition*. While this might work under conditions of extreme oppression, it will fail under conditions of democracy: in a democratic society, what is possible is not defined by brute force but by the most subtle mechanisms of domination and discursive control. The possible cannot simply be declared the enemy for which a ‘counter-possibility’ exists, but will constitute the effective limit of all political action. In order for new political possibilities to emerge, the boundary between the possible and the intelligible has to be blurred – which is the indispensable *precondition* of radical change, and not its result.

In sum, none of the three major strands of democratic theory dominating the field today can by itself guide the way towards democratic transformation or, if you like, towards transformative democracy. They all suffer from severe limitations with regard to conceptualising, institutionalising and enacting transformative change. Most conspicuously, none of them is particularly good at institutionalising democratic decision-making – in fact, they are all shockingly weak on this count. This outcome suggests that in designing effective democratic devices one should not commit oneself ‘to one particular theoretic position or model of democracy’, as Smith (2009: 10) points out, but should combine the advantages of different models. Michael Saward (2001: 361), for example, suggests that the ideals and practices associated with deliberative democracy, on the one hand, and direct democracy, on the other, ‘can be shown to be mutually supportive, and in some cases even mutually implicative’ and that both models therefore ‘ought to engage with each other's perspectives much more than they have done so far’. The democratic device of the White Door, which I will present below, will (I believe) prove his point and

should be seen as a contribution towards this mutual engagement. The task ahead will therefore be to design a device that allows the five requirements of transformativity to be fulfilled in the best possible way. The resulting arrangement will have to bring together the strategic and antagonistic strengths of radical democracy and the discursive permeability of deliberative democracy, if the agentic deadlock in liberal democracy is to be broken.

6.4. The White Door

According to Saward (2003a: 161), democratic principles ‘gain their meaning and force through enactment’. Thus principles ‘come alive (are “lived”) through the medium of formal decisional mechanisms or devices which are designed to activate them *and* which come to be justified in terms of them’ (2003a: 166). I have argued in this thesis that enhancing democratic control over processes of societal change and transformation should be considered an important democratic principle – one which is, however, not convincingly enacted in liberal democratic societies. I will therefore now propose a democratic device that might be suitable to enact and bring to life the democratic principle of transformativity, and I will call this device the ‘White Door’, for reasons that will become apparent in due course. Enacting democracy, as I understand it, requires institutional ‘fine-tuning’ – designing suitable mechanisms, procedures and devices and assembling them into a coherent institutional framework that should ultimately be able to bring to life all the democratic principles we are striving for. This process of institutional innovation, redesign and readjustment will perhaps never come to an end and should be considered a vital part of democracy itself. There should be nothing wrong with considering democracy to be eternally ‘under construction’, to use Saward’s (2003b: vii) words. The remainder of this Chapter will therefore be dedicated to the design and assessment of the White Door as a device to enhance democratic transformation.

The first difficulty we are confronted with in designing the White Door is the fact that the public sphere is a rather unusual place for an institution of decision-making to be installed. In order to understand this problem fully, it is helpful to refer to Nancy Fraser's distinction between *weak* and *strong* publics. Weak publics are publics whose discursive function 'consists exclusively in opinion formation and does not also encompass decision making', whereas strong publics are 'publics whose discourse encompasses both opinion formation and decision making' (Fraser 1992: 134). Crucially, as Fraser points out, the liberal democratic conception of the public sphere is that of a weak public, since liberal democracy is based on a strict separation of the functions of the state and the public sphere: '[t]he public sphere, in short, is not the state; it is rather the informally mobilized body of nongovernmental discursive opinion that can serve as a counterweight to the state' (*ibid.*). Hence, according to the liberal-democratic view, 'an expansion of such publics' discursive authority to encompass decision making as well as opinion making would threaten the autonomy of public opinion, for then the public would effectively become the state, and the possibility of a critical discursive check on the state would be lost' (*ibid.*).

The problem Fraser is addressing here is highly relevant for us: if the public sphere were endowed with formal powers of decision making, it could easily enter into a functional competition with the state itself, or develop into a parallel state. It is therefore of little surprise that the only 'strong public' Fraser identifies within the liberal democratic framework is the institution of the 'sovereign parliament', which 'functions as a public sphere *within* the state' (*ibid.*, original emphasis) in that it is 'a locus of public deliberation culminating in legally binding decisions (or laws)' (*ibid.*). Any institutional mechanism of collective decision making thus belongs within the sphere of the state, as it seems. Is it

therefore impossible to turn the public sphere into a *strong public* without shattering the liberal democratic framework?

I do not think so. The problem of the public sphere ‘becoming the state’ only occurs, I maintain, if the decision making institution is of *representative* nature. This has to do with the same mechanisms that are at work in the concept of epistemic legitimacy: only if there are representatives who can be held accountable for the decisions they make can there be a conflict with other decision-making bodies or with the represented at large. The institution we are trying to develop thus cannot take the form of a council or an elected (or randomly selected⁴⁸) body of representatives. While the state must inevitably be representative by nature, the public sphere must *not* – otherwise it would turn into the state. The alternative of representative decision making, of course, is *direct* decision making. Any decision in the public sphere thus cannot but be the aggregate of the individual wills that constitute the public. When, as we saw, Elias Canetti wrote that ‘the counting of the votes ends the battle’ (cited in Mouffe 2005: 22), he was referring to the bliss of anonymity that any free and secret ballot entails. The result of the vote is a ‘given fact’ just like any fact that emerges out of the world market, to which the state bureaucracy has to react. If nobody is to be held accountable for the decision but the anonymous public itself, there is little scope for conflict with the representative system of the state. Hence, the institution we are trying to develop here will not require new buildings to be built, or new positions to be filled: it will itself be no more than a door through which the public can march if it chooses to; it will be a mechanism rather than an office. And this mechanism will have to involve, *inter alia*, the aggregative instrument of the referendum as the ultimate means of direct, collective decision-making in a large polity.

⁴⁸ A governing body in a democracy does not necessarily have to be elected but can also be randomly selected, that is, appointed by rotation, sortition or lot. See Ch. 3 in Smith (2009).

By definition, '[a] referendum refers a proposed or existing law to voters for their approval or rejection' (Smith 2005: 80). Hence, a referendum is a decision on a policy or legal matter taken in a popular vote. It can be called by the government or result from a citizen's initiative. Importantly, now, in order to be an instrument *of* the public sphere, the referendum must not be called by the government, but must be initiated by actors within the public sphere itself, that is, by actors of civil society. The democratic arrangement in question must therefore involve provisions to enable and regulate the process of democratic will-formation in the public sphere from its initiative to its decision in a referendum. What we arrive at that way is a mechanism of 'citizens' legislation' – a mechanism that enables legislative decisions to be made directly by the citizenry upon opinion-formation in the public sphere, and based on initiatives coming from civil society. This mechanism in no way replaces the existing representative legislative institutions, but serves as an important supplement to them.⁴⁹ While parliament will continue to be the standard channel for arriving at legislative decisions, the new mechanism will be an option actors in civil society can choose if they have the feeling that what they believe should be possible is not considered possible within the parliamentary system.

The White Door is a version of what could be called a *multi-stage citizen's legislation*. It combines several procedural elements already existing in the real world of modern democracy into a coherent mechanism of direct-democratic decision-making in the public sphere. To be sure, there already exist a few types of multi-stage mechanisms of citizens' legislation in a range of Western democracies, like the two-stage 'citizen's initiative' (consisting of the 'initiative' and the 'referendum' stage) in Switzerland and in several US states, and other two- or three-stage models in countries like New Zealand, Italy and

⁴⁹ Smith (2009: 140) points out correctly that '[i]n many ways the institutionalisation of direct legislation makes sense only *within* a system of representative democracy. Parties and other mediating political institutions do not simply disappear – they play a critical role in the effectiveness of direct legislation'.

Austria, as well as in several German states and within the legislative framework of the European Union. However, as I will show in some detail towards the end of this Chapter, all of the existing models are curtailed by severe procedural shortcomings, so that none of them actually fulfils its potential of effectively breaking the agentic deadlock of liberal democracy. This, it might be suspected, is not a coincidence. In Germany and in Austria, however, there have been proposals for a three-stage model of citizens' legislation (*Dreistufige Volksgesetzgebung*) that come quite close to my model of the White Door.⁵⁰ These proposals are gaining ground in German political discourse and are supported by left-wing and green parties, as well as by various groups in civil society. In Austria, the proposal is supported by a strong civil society network. Still, both the German and Austrian proposals suffer from some procedural defects which I will also discuss towards the end of this Chapter. Before getting enmeshed in a comparative analysis of all these real-world examples, however, I want to present my model of the White Door without further delay.

The White Door consists of three consecutive stages, namely the initiative, petition and referendum stage. These three stages represent different levels of public engagement and legal commitment. The procedure starts with the 'initiative' stage, where a group of citizens tests the intelligibility and popularity of their particular demand or idea by collecting signatures in support of it. If they are successful in meeting a certain threshold of required signatures, the second stage of the process is automatically initiated. I suggest the threshold of success for the 'initiative' stage to be rather low, at only 0.1 per cent of the registered electorate. In return for this low threshold, the signatures must be 'verified', that

⁵⁰ In his report *Beyond the Ballot: 57 Democratic Innovations from Around the World*, Graham Smith (2005) discusses both the government-sponsored referendum and the citizen's initiative as democratic innovations. However, he omits the three-staged model of citizens' legislation as was first introduced in the German *Weimar Republic* (1919-1933) and is now operative in several German *Bundesländer* and of which the White Door is a variant. In so doing he arguably misses one of the most powerful democratic innovations there is.

is, supporters must sign the initiative at a local government office upon presenting their ID. The reason for this requirement is that this first stage is not about amassing public support, but about showing that there is a big enough pool of committed sponsors of an idea to justify the initiation of a direct legislative procedure.

In the ‘petition’ stage, the issue is presented to the general public for the first time. The initiative now becomes a petition to parliament. After a period of public debate, which should be no shorter than three and no longer than six months, the electorate is given the opportunity to express their support for the petition at the polling stations (or, once feasible, online⁵¹) within a set period of one or two weeks. Importantly, this is not a yes/no vote, but an occasion to support a petition: the voter can either sign on or abstain. Now there are two thresholds of success for the petition that trigger different measures. If the lower threshold is crossed, which I suggest to be set at 2 per cent of the registered electorate, parliament is obliged to debate the petition – this obligation does not involve the commitment to enact any legislation. The higher threshold, however, which I would set at 10 per cent of registered voters, automatically triggers a referendum on the proposal, following another period of public debate of between six and nine months. In case that parliament has issued, within four months of the petition period, legislation that fully satisfies the demands of the petition, the initiators have the option to waive their right to call for a referendum.

The referendum is decided by a simple majority without a quorum set for voters’ turnout. No matters are to be excluded from entering into a White Door procedure, except for proposals that would weaken existing standards of human and civil rights in the polity.

⁵¹ See the collection of ‘E-democracy innovations’ in Smith 2005 and a thorough discussion of E-democracy in Smith 2009.

Hence, the White Door offers the possibility of amending the constitution and changing international treaties. Decisions taken through the White Door can be revised only by another White Door decision or by a parliamentary super-majority (of two thirds) after a retention period of six years. However, parliament can immediately veto a White Door decision that would substantially change the constitution by a two-thirds majority, after which it has to be dissolved and re-elected. That way, parliament remains the sovereign over the fundamental structures of the polity, which means that democracy cannot be abolished by a popular vote, for example.

6.4.1. The transformative capacity of the White Door

Now that I have outlined the basic mechanism of the White Door, we need to discuss its transformative capacity. In that it is an *institutional* arrangement for the purpose of *decision* making in the *public* sphere, the White Door already fulfils three of the five requirements identified earlier. But what about its capacity to increase the permeability between the intelligible and the possible; and how far does it enhance the conditions of strategic political action within civil society?

The answers to these questions can be found in the three-stage setup of the White Door mechanism. The two stages preceding the referendum stage fulfil a crucial double function as both, filters and stepping stones. As filters, they make sure that only such proposals (which I will henceforth call ‘elements’ in accordance with the terminology established in earlier Chapters) reach the respective next stage, which are endowed with sufficient public support and which are regarded as ‘intelligible’ by the general public. The initiative stage determines whether the element is able to attract enough committed supporters to show that it is of public concern and that it will be intelligible to the wider public. The second

stage, then, is a test whether the citizenry, after having given it sufficient consideration in public debates, regards the proposal to be important and worthy of being made a priority on the political agenda. If this is answered in the positive in that the crucial threshold for a referendum to be triggered is crossed, the element has effectively reached the status of semi-possibility: the only criterion that separates it from being effectively possible is its passing of the referendum stage.

Hence, the White Door mechanism is designed in such a way that only such elements will fare well in the procedure that are embedded in a discourse strong enough to sustain two stages of intense public debate. Passing the petition stage but failing in the referendum is already going to be a success showing that the element in question has some relevance in the polity.⁵² Only few elements, it has to be made clear, will survive all three stages and end up being implemented by law.

But while the two non-decisive stages of the mechanism fulfil important roles as filters they also work as stepping stones. This second function, I submit, is at least as important as the first one. Let me explain why. In a normal *weak* public sphere within a liberal democratic framework, the status of each element in relation to its possibility is ‘remote-controlled’, so to speak, by political grammar. If an element does not have a chance of being enacted due to its grammatical impossibility, there is little point in paying much attention to it. Thus, a lot of intelligible elements within the political imaginary are in some kind of a frozen state – they are alive in that they are intelligible and thus worth talking about, but at the same time they are immobilised because they are ‘impossible’ and thus not worth wasting time on. An element might simply be impossible because it cannot be

⁵² Smith argues in a similar vein (following Linder 1994), that ‘even when initiatives are unsuccessful, they can have an effect on the political process by placing new issues on to the political agenda, accelerating the adoption of policies and expressing discontent with the political establishment’ (2009: 120).

enacted by the operators ‘solution’ or ‘choice’, but would require a collective decision. In fact, a whole class of elements are ‘frozen’ that way – they are excluded from public deliberation by virtue of their systemic impossibility.

This is precisely the point where the White Door mechanism – turning the *weak* public sphere into a *strong* public – offers radically new possibilities. The two non-decisive stages – which could be called ‘discursive stages’ in a Dryzekian vein (*cf.* Dryzek 2000) – are like rope ladders cast into the political imaginary, offering elements the chance to cling on and to climb their way towards the zone of the possible. The very fact that these discursive stages entail the possibility of a decision (and thus the possibility of possibility) automatically suspends that part of political grammar that is defined by the agentic regime of liberal democracy: choice and solution are no longer the gate keepers of the possible. In fact, the two discursive stages of the mechanism work like stages in the literal, theatrical sense for elements to present themselves to public scrutiny. Once an element has passed the initiative stage it will be debated by the public as ‘an issue’ – not necessarily a pressing or important one as of yet, but as something that needs to be considered. If sufficient people, after having heard different points of view on the matter, consider the element worthy of their support and can *imagine* the element to be enacted as law, the element will climb up the ladder and reach the next stage, where it has to defend itself and to present its case once again. This time, the element will be a pressing and important issue for the whole polity because what is at stake is a binding decision about its fate: can we imagine this element to form part of our future or will we reject it as undesirable? The element, at this stage, will be semi-possible by definition, because it will be subject to a binding, collective decision.

What the discursive stages do is therefore make *intelligibility* an effective criterion for *possibility*. In offering any element the chance of a decision, they create a much more level playing field within the political imaginary. Every element can now be *imagined* to form part of our reality and judged by its content, its argument, its objective. ‘Does it make sense?’ is the crucial question to be answered – and if it does, it might as well become reality.

The function of the three stages within the White Door mechanism can be further elucidated if we adopt James Hyland’s (1995: 56-58) definition that ‘every decision has four logically distinct stages or “moments”’, namely ‘agenda-setting’, ‘debate and discussion’, ‘the moment of decision itself’ and ‘the moment of implementation’. Apart from the moment of implementation, which is left to government, the White Door covers all three stages up to the moment of decision itself.⁵³ Crucially, however, Hyland’s stages of decision-making are not coextensive with the stages of the White Door, but they overlap in the White Door mechanism. The stage of agenda-setting starts with the decision of a group of civil-society actors to start an initiative. It ends with the successful passing of the petition stage. However, the phase of public debate and discussion does not start only after the conclusion of the petition stage, but already at the successful completion of stage one. Hence, the period between initiative and petition is one of agenda setting *and* of public debate and discussion. *Figure 6.1* shows the three stages of the White Door mechanism and their discursive functions.

⁵³ For a discussion of Hyland’s four stages of collective decision-making see also Seward 1998: 57ff.

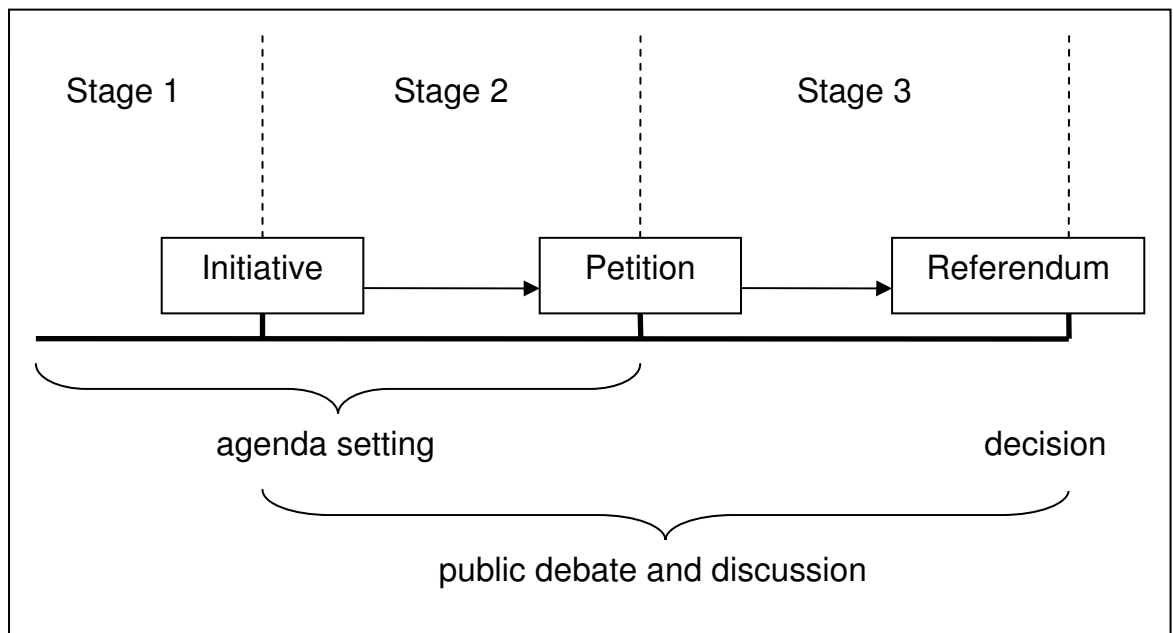


Figure 6.1: The stages of the White Door mechanism

Hence, public debate will be of a slightly different nature and follow different rules in stage two and stage three. In stage two the debate will be characterised by the agenda setting efforts of the initiators: their primary aim will be to mobilise support for the element in order to achieve a high voter turnout in the petition week(s) and not to convince a majority of voters. Put differently, the objective of this stage is to mobilise a strong minority (at least ten per cent of the electorate) and not to find a majority. This makes an important difference to the style and function of the discursive stage. While most arguments for and against the element in question will most probably be presented already at this stage, they will be strategically directed at that portion of the public that is most likely to support the petition. In stage three, by contrast, the arguments must be presented and discussed in a way that addresses the *entire* electorate. Hence, stage three would be the appropriate stage to introduce one or more deliberative instruments, like a publicly broadcast citizens' forum on the subject or a series of two or three TV debates that have to adhere to some minimum deliberative standards. The purpose of such deliberative

instruments would be to increase the permeability between the intelligible and the possible: by clarifying arguments and discursive frontiers the voters would be in a better position to fully understand the subject and the stakes involved and to make up their minds about it. The aim of public deliberation would not be to arrive at a consensus, nor to find a compromise or a ‘solution’ to a commonly accepted ‘problem’, but to make sure that everyone has access to all arguments when choosing sides in the run-up to the referendum. I thus agree with Michael Saward’s (1998: 118) view that although ‘there is a case for including formal deliberative mechanisms’ within direct-democratic schemes of decision making, the resulting sample of public opinion should in no way ‘be taken in fact as the view, much less the formal decision, of the whole voting populace’. Deliberation has an important role to play in a thoroughly democratic process of will-formation, but the act of decision-making that necessarily concludes every properly democratic process must be of aggregative nature. In fact, Saward is in favour of combining deliberative and ‘direct’ elements into possible new democratic devices, and suggests the following sequence: ‘*initiative – delay – deliberation – referendum*’ (Saward 2001: 374). The White Door device takes up this suggestion and refines it in that it offers two periods of delay and two aggregative stages that serve as filters and catalysts.⁵⁴

⁵⁴ According to Saward, the sequence he proposes ‘could be spelled out in a variety of specific ways. One possibility would be as follows: a citizen’s initiative, in which approximately 2 % of signatures in a constituency can place a question on the formal political agenda for resolution – a period of open discussion via the media and various civil forums in which formal institutions and decisions do not figure – a period of focused deliberation in more formal settings of the parliaments and local government forums – a popular referendum resolves the issue if it passes a majority in the key deliberative forums’ (2001: 374–375). The only thing I do not agree with in Saward’s proposal is that it awards deliberative devices a formal filtering function. This would mean that the grip of the ‘possible’ over the ‘intelligible’ would still be too tight. Parliaments and local governments are usually deliberating firmly within the strict boundaries of political grammar and would thus tend to eliminate intelligible-but-impossible elements in their deliberations. I think that the three-staged model of the White Door would be better at activating the resources of the political imaginary while filtering out arbitrary and unintelligible demands. Formal deliberative devices (like citizens’ forums or focus groups) should have informative capacities only (possibly in stage three), if they were to play a part in the process.

The petition and referendum stages of the White Door mechanism can also be interpreted in terms of ‘two readings’ of the same subject. In his conception of a *Strong Democracy* (1984), Benjamin Barber proposes that every referendum be repeated in order to give the voters the chance to rethink their decision. ‘The second vote (“second reading”) would in effect reevaluate the results of the first vote’ (1984: 288). This measure of caution is called for, according to Barber, ‘to guard against a too-impetuous citizenry or a too powerful elite gaining temporary control of public opinion’ (*ibid.*). While I think that a repetition of the referendum would tend to weaken the instrument itself in that it suggests that the will of the citizenry is not to be trusted at the first time, I believe that it is nevertheless important to offer the opportunity for a re-evaluation of the own opinion within the decision-making process. This opportunity is granted in the White Door mechanisms, I maintain, in that the citizenry has the chance to form its will on the same subject at two consecutive occasions. While the first occasion does not constitute a decision, its outcome will nevertheless shed new light on the issue and lead many voters to re-evaluate their views. After the petition stage, debate and discussion start anew and offer a fresh chance to make up one’s mind. For instance, some voters might support the petition because they like the direction it takes and they want the issue to be on the political agenda. They might then re-evaluate their position in the last stage and decide to vote ‘No’ in the referendum because they feel the proposed measure is too radical. The result of such a voting behaviour would not be contradictory at all: it would convey the message that society should move in a certain direction but that the concrete measure in question was too radical. The lasting effect of such an outcome would be that the element in question might not have prevailed in the referendum but would have moved more centre-stage within the political imaginary, thus opening up new discursive opportunities and perhaps sparking new political ideas.

It is important to note, at this point, that the White Door mechanism has two countervailing temporal effects on liberal democratic politics: on the one hand, it offers a way to end debates and to speed up political change in that it involves collective and binding decisions; on the other, however, it involves two consecutive discursive stages precisely to slow down the deliberative process and to allow the element under debate to be scrutinised and weighed before it is decided. What is more, in that the proposed threshold in the petition stage is relatively high it stipulates that elements are rigidly barred from the second discursive stage if their case is not convincing at least to a significant minority. This allows for a certain ‘maturation’ of discourses and requires that elements must have been intelligible for quite some time if they want to stand a chance of being admitted to the decisive stage. The White Door thus involves some ‘slow cooking’ of discourses, but it offers the opportunity of effecting radical change quite rapidly, when a discourse is ‘ripe’.⁵⁵

Let me now briefly discuss the effects of the White Door mechanism with regard to our last requirement – that of strategic action within the public sphere. Here again, the decisive difference compared to the hitherto ‘weak’ public sphere in liberal democracy is introduced by the two discursive stages within the White Door mechanism that function as ‘stepping stones’ towards a potential decision. The concomitant activation and revitalisation of the political imaginary has a vital effect on the strategic possibilities within civil society. Civil society actors are now no longer restrained in their strategic options to either work within the mode of ‘solution’ or ‘choice’, that is, to translate their goals into the techno-administrative rationality of liberal democratic governance or into the rationality of the market, but have the entire political imaginary to their disposal, at least in

⁵⁵ For an interesting account of ‘slow’ and ‘fast’ approaches to democratic theory see Saward 2011.

principle. They are no longer confined in their selection of objectives to elements that are already 'possible' and thus will not achieve much change, but can aim at making intelligible elements possible through the White Door. This new outlook for doing politics in the public sphere would constitute a fundamental shift in the scope and meaning of democratic politics: the development and creation of new ideas and proposals, of new 'discursive elements' that might have a chance of passing through the White Door, could become an important and crucial activity of citizens, intellectuals and non-governmental organisations (NGOs). Finding allies for ideas would become a game that is no longer restricted to the elites of governments, political parties and business lobbyists, but might be as simple as convincing an NGO, a party, a trade union, a religious community or a newspaper to support an initiative. 'Relevant' and effective political activity would no longer be limited to the administrative and economic centres of power, but could take place in cafés and club houses, in pubs and seminar rooms, in private homes and on university campuses. Institutional actors like NGOs could assess the suitability of their campaigns and demands for a White Door procedure and develop new ideas specifically for the White Door; they could create strategic alliances with other actors and groups to jointly focus on one demand at a time in order to increase the chances of success. The White Door mechanism would thus increase activities of strategic planning and perhaps of bargaining within the public sphere, which is not a sign of the public sphere becoming 'corrupted' by politics, but of the public sphere becoming a relevant locus of political will-formation.

We must not forget, however, that while the White Door suspends the limiting effects that the agentic deadlock has on grammar, it does not do away with grammar itself. Put differently, only because any intelligible element could now in principle become possible does not mean that it will. Many intelligible ideas will remain politically, economically,

technically or ideologically unfeasible, no matter how good the strategy behind their campaign. Grammar still sets the bounds of sense, and thus determines what is intelligible and what is possible. The radical change the White Door would introduce is the fact that the possible would no longer be insulated from the intelligible by the agentic deadlock of the liberal democratic order, that is, by the lack of collective decisions. The White Door would increase the chance of intelligible elements becoming possible and thus changing grammar. It would work as a catalyst of ideas and as a bridge between these two vital zones of the political imaginary – as an institution whose function it is to bring the power of imagination back into politics.

Now is perhaps a good time to explain why I named my model of citizens' legislation the 'White Door'. The 'door' is an appropriate allegory, I believe, for the functioning of the mechanism: a door connects two rooms or spaces – in this case, the zones of the intelligible and of the possible in the political imaginary or one reality with another. Crucially, we do not use doors all the time - their most important function is in fact simply to be there for us to be used at our will. A room without a door is a dungeon; one with a door that cannot be opened is a prison cell or a cage. In liberal democracy we live in the 'iron cage' of an agentic regime that locks us into an autopoietic mode of transformation. The White Door opens that cage and allows us to connect our political imagination in a purposive way with the reality we live in. For the White Door to function properly, however, it must not be too easily accessible, that is, we must not be able to arbitrarily impose all our imagination onto reality, since this would not ensure the required connectivity between imagination and reality. We therefore need to use a ladder to reach the White Door (the two discursive stages) and a key to open it (a majority in the referendum). Finally, the White Door is 'white' because, according to the science of

colour, white is the combination of all visible colours and therefore ideally represents the democratic idea: it is there for every one to use on equal terms and is itself a ‘neutral’ device.⁵⁶ It is not a device that favours a particular political project, like the ‘egalitarian project of a radical democracy’, as understood by Laclau and Mouffe (2001), but it is a device that can be *used* to advance such a project. It can be equally used, however, to advance a right-wing populist agenda of tighter immigration laws (so long as it does not weaken existing human and civic rights), or a green agenda to transform the nature of capitalist production. The White Door itself supports neither of these projects, but it opens up the possibility for actors in society to start a debate about *what* society should look like and to come up with concrete proposals that go beyond the mere administration of a largely given reality. This possibility of course involves the possibility of antagonism and of the need to mobilise and speak out against proposals one does not endorse. The White Door would make democracy more *dangerous* in the sense that there would be political battles about important issues that one could lose. But this is just another way of saying that the White Door would make democracy more *relevant*. After all, democracy would be meaningless if it did not involve the risk of losing battles as well as the opportunity of winning them.

It should be noted that the White Door would probably work somewhat differently in different political cultures. Despite some universal features that are shared by all liberal democratic regimes, none of these is identical with any other. Similarly, the White Door

⁵⁶ It was Isaac Newton who first discovered that when white light is sent through a prism it will be fractured into all the colours of the spectrum. ‘The prism does not modify sunlight to yield colors: Rather, it separates out the rays of different refrangibility that are promiscuously intermingled in the white light of a source such as the sun. If the rays of the spectrum are subsequently recombined, then a white is again produced’ (Mollon 2003: 3). I am aware of the fact that the colour white is heavily burdened with political meaning and symbolism, for example relating to peace (white dove) or surrender (white flag) but also to the concept of ‘race’. It should be superfluous to note, however, that there is no such thing as a ‘white’ skin, since all skin has a colour, and that the White Door does not allude to any such racial symbolism.

procedure would not have identical effects in every liberal democratic setting. It is fair to assume that in some cultures the mechanism would be used more frequently than in others; in some cultures, we might further assume, the mechanism might have some destabilising effects on the political system due to the polarising function of the final stage, whereas in other cultures this polarisation would lead to a welcome politicisation of the public sphere without undermining the system's stability. Alas, the White Door as proposed in this Chapter might be an ideal democratic innovation for some systems but might require some adaptation before it could be implemented in others.

I argued that the development and implementation of new democratic devices is as much a matter of fine-tuning as it is one of grand design. The model I am presenting here is fine-tuned to what I believe would be ideal for the political system of Austria, which I am most familiar with. Other systems might require other thresholds and solutions, however. Some might need higher thresholds in order to ward off the flood of initiatives that would have to be expected; others might need lower thresholds to stimulate participation in a more passive political culture – and there might also be political cultures in which the White Door would not be accepted as a suitable democratic innovation at all. I believe, however, that in most liberal democracies, the White Door would constitute a powerful and effective device to break the agentic deadlock that is nowadays paralysing political systems around the world.

6.4.2. The White Door and agentic deadlock

Let me now briefly summarise the effect the White Door mechanism would have on the agentic regime of liberal democracy. I have established in Chapter 3 that the three agentic operators are functionally linked to the three spheres within the liberal-democratic

framework: while ‘choice’ is the logical operator of the market, ‘solution’ is the operator state actors rely on (to be sure, within a *normative* understanding of democracy, the state would also be required to make ‘decisions’, but as we have seen, it is incapable of doing so due to its need to sustain its epistemic legitimacy). Hence, the only sphere where the need for decisions can be articulated is the public sphere. However, the public sphere has no power to make decisions in a liberal democracy and thus has to direct its demands to the state or the market. Since neither sphere makes decisions, the discursive relevance of the operator ‘decision’ is suspended even within the public sphere. As a consequence, political discourse also in the public sphere is geared towards political agency in the modes of solution and choice, since they are the only relevant agentic operators. This dynamic is what I have called the ‘agentic deadlock’ in liberal democracy. But what would be the effect on the economy of agency within liberal democracy if the public sphere were equipped with a White Door?

First of all, the fact that the agentic shield of the state relegates demands for decisions to the market or to its own sphere of techno-administrative solutions would no longer mean that decisions cannot be made. Citizens could then start a White Door procedure to impose a decision on the state. This would have two crucial consequences: the first is internal to the public sphere itself and concerns the fact that political discourse within civil society would now include the possibility of decision-making and of strategic action and planning in this regard. This, in turn, would mean that the state could no longer simply extend its own mode of agency over the public sphere; the public sphere would become, to some extent, an autonomous sphere of political discourse.⁵⁷ In this respect, it would – ironically – fulfil even better its *liberal* role as a sphere that is strictly separate from the state. While

⁵⁷ I have shown in Chapter 3 how the state extends its mode of agency (‘solution’) deep into the public sphere through mechanisms of ‘governance’ which entail ‘a process of possible *incorporation* of the lay public into official institutions’ (Newman *et al.* 2004: 211-12, cited in Smith 2009: 17, original emphasis).

the currently prevalent model of ‘governance’ might still play an important role, it would no longer constitute ‘the only game in town’ for civil society actors – instead, NGOs and other civil society actors would have more leverage to define the terms of the game.

This leads directly to the second consequence: the state would have to become more *responsive* to the public sphere.⁵⁸ This increased responsiveness would come at two levels: the first is the fact that White Door decisions would constitute another source of facts for the state to react to. This would simply mean that government would have to implement these decisions and could do so *without* weakening its epistemic legitimacy – the decision was made by the anonymous people and not by its representatives. This level of responsiveness is a rather mechanistic one: the state has to implement what the public sphere decides. The other level, however, is more dynamic: it regards the fact that government and/or parliament can and will react to White Door proposals long before they are decided in a referendum. For example, governments will try to fend off proposals they consider too radical by offering a compromise.⁵⁹ In some cases, they will even enact pre-emptive legislation that goes some way towards the proposal in order to make the referendum appear unnecessary. While this responsiveness of the state during the White Door procedure will invariably lead to the defeat of some initiatives in the referendum or even to their ‘interception’ before the referendum stage, this should not be regarded as a danger to the White Door or to its transformative power. In fact, it is part of its strength. The White Door not only introduces the power of decision-making to the public sphere, but it forces the state to leave its ‘safe’ trajectory of autopoietic change without undermining its epistemic legitimacy. The state is thus led to take measures that are more radical than those it would take under ‘normal’ conditions, without compromising its

⁵⁸ According to Michael Saward (1998: 51), the aim of democracy can be defined as ‘responsive rule’.

⁵⁹ This kind of response can be observed quite frequently in the Swiss model of direct democracy (see discussion below and Kobach 1993).

delicate epistemic legitimacy. That way, the White Door would help expand the scope of political agency within the liberal democratic framework even if no referendum ever succeeded.

To be sure, the introduction of the White Door would not mean that ‘decisions’ would henceforth dominate political action in liberal democracies. In fact, decisions would still be relatively rare events in democratic life. The bulk of agentic operations would still be carried out in the mode of solution, and within the extensive institutional framework of the representative state. However, the state would now have to find solutions not only to problems emanating from the market economy and other ‘independent’ sources of reality, but it would also have to react to ‘problems’ coming out of the public sphere: offering a political compromise to a referendum would hence be just another ‘solution’ government has to come up with. Equally, choice would still remain an important agentic operator: many new developments in society would still first be tested in the market, and only this test would show if an innovation could become an intelligible element on a societal scale. For example, organic agriculture and the ‘fair trade’ scheme became intelligible elements of political discourse through their successful establishment in the market place. Hence, the market could take on the role of a testing field for innovations rather than that of the primary generator of societal (autopoietic) change. The White Door, in sum, will not impose decisions onto society at the expense of solutions and of choice, but it will bring all three agentic operators into a new, productive balance.

6.4.3. The White Door in a comparative perspective

As I pointed out above, the White Door is not an entirely new model of democratic decision-making, but can be counted among a group of existing democratic instruments

which I characterised as ‘multi-stage citizens’ legislations’, of which three types can broadly be distinguished: the citizens’ initiative, which combines the initiative and referendum stages; the citizens’ petition, which combines the initiative and petition stages; and the three-stage citizens’ legislation, combining all three stages – initiative, petition and referendum. Examples of all three types can be found in a handful of democracies around the world. The three-stage citizens’ legislation, however, of which the White Door would be an example, was enacted on a national level only in the German *Weimar Republic* (1919-33) and is nowadays in operation in a restricted form in several German states only. *Table 6.2* provides an overview of types of multi-stage citizens’ legislations around the world.

Type	Country	Initiative	Petition	Referendum
Citizens’ Initiative				
	Switzerland	✓	—	✓
	several US states	✓	—	✓
	New Zealand	✓	—	(✓)
	Italy	✓	—	(✓)
Citizens’ Petition				
	Austria	✓	✓	—
	European Union	—	✓	—
3-stage citizens’ legislation				
	several German states (‘Länder’)	✓	✓	✓
	Weimar Republic (Germany 1919-33)	✓	✓	✓
	<i>White Door</i>	✓	✓	✓

Table 6.2: A comparison of types of multi-stage citizens’ legislation

In what follows I will present a comparative analysis of the three types of citizens' legislation and their application in contemporary polities. Due to limitations of space I will not be able to go into much detail but will have to restrict my comparison to those aspects that are important for a comparative assessment of the White Door mechanism. The purpose of this comparison is to show that whether or not a citizens' legislation has transformative potential depends on its institutional enactment – procedural details can make huge differences in the overall functioning of the device. What is at stake is institutional 'fine-tuning', and I am happy to concede in advance that the White Door, as I presented it here, is far from perfected and offers ample room for further improvement.

6.4.3.1. Citizens' initiatives

The citizens' initiative or 'citizen-initiated referendum' (CIR) (Parkinson 2001) consists of an initiative and a referendum stage and omits the intermediate petition stage. This has important consequences for its democratic performance. Most importantly, the initiative stage constitutes the only filter or hurdle for the triggering of a referendum. This means that a rather high threshold has to be set to ensure the filtering function. Another consequence is that since the high hurdle is already set at the first stage and no prior filtering has occurred, the collection of signatures cannot take place at the polling stations (as that would overwhelm the electoral infrastructure) but needs to be carried out privately. Hence, we arrive at the following setup: a few initiators register an initiative with the authorities and are then given a certain amount of time (this can range from 50 days to 18 months, depending on the polity) to privately collect an enormous number of signatures to trigger a referendum. This is a very difficult task which requires the workforce of many volunteers or paid signature collectors, which creates a new set of problems related to an

indirect monetary filtering function: very powerful or wealthy organisations will have much better chances to take the hurdle.⁶⁰ Another problem, with regard to the transformative capacity of the device, is the existence of only one discursive stage, namely the phase between the successful passing of the signature threshold and the referendum (since the collection of signatures takes place in private, usually no proper public debate takes place at this stage). This means that the permeability between the intelligible and the possible will generally be lower than in the White Door mechanism.

There are currently only four countries allowing for the citizens' initiative – Switzerland, Italy, New Zealand and the United States – and only the former three apply it on a national level (Parkinson 2001: 404). Of those three, two (Italy and New Zealand) have significant procedural restrictions in place that limit the effectiveness of the instrument, which means that Switzerland is the only country with unrestricted citizens' initiatives on a national level. Let me now examine all four cases briefly.

Switzerland

In Switzerland, any seven voters can submit a request for an initiative together with a description of the desired legal measure⁶¹. They then have eighteen months to collect

⁶⁰ This problem could arguably be alleviated by collecting signatures online, which might reduce the workforce required and costs involved in door-to-door campaigning. However, as Smith (2009: 159) points out, '[m]ore extensive use of ICT [information and communication technology, D.H.] in direct legislation also brings with it increased security risks. The reliability and robustness of the internet is vulnerable to insider fraud and external attacks and can reduce public confidence in the process. The cost associated with necessary security measures means that the hope that e-voting would reduce the financial burden of organising votes appears to be misplaced'. This might also be the reason why to date the electronic collection of signatures for citizens' initiatives has not been implemented in any of the polities discussed here. In California, for example, a court has recently (2011) confirmed that e-signatures are not permitted under Californian law (see <http://ballotnews.org/2011/07/07/ballot-law-update-electronic-signatures-rejected-in-ca/>).

⁶¹ As a matter of interest, the citizens' initiative is an instrument for constitutional amendments only, not for changing normal law. As Kobach (1994: 106-107) points out, '[t]his has placed Switzerland in a curious position, in which the highest law of the land is more easily amendable by popular action than are routine statutes. Consequently, proponents of reform frame as constitutional amendments proposals that otherwise

100,000 signatures in support of the initiative (Kobach 1993: 42). The government then has the option either to endorse the proposal, recommend rejection or recommend rejection and submit a counter-proposal of its own (*ibid.*: 43). As Kobach points out, ‘typically such counterproposals accept some of the petitioners’ demands while omitting others’ (*ibid.*). The initiative is then placed on the ballot; if the government submits a counter-proposal, voters are asked three questions: ‘(1) whether they favour the initiative, (2) whether they favour the counterproposal, and (3) which they favour if both are adopted. If both the initiative and the counterproposal pass, the third question controls’ (Dubois and Feeney 1998: 50). For any of the proposals to win the referendum, it has to be approved by a double-majority of voters nationally and of voters in a majority of the Kantons (the Swiss states) (Trechsel and Kriesi 1996: 189). A major restriction on the initiative process is the fact that there is no formal time limit for government to consider an initiative proposal and to set a date for a vote. Hence, delays of seven years or more in the initiative process are not uncommon (Kobach 1993: 43; Parkinson 2009: 11). The government often uses delay as ‘an intentional tactic designed to break an initiative’s momentum’ (Kobach 1993: 43).

As Kobach points out, the free collection of the 100,000 required signatures is ‘no easy matter’ (1993: 95) and a large portion of initiatives fail to meet the requirement. ‘Some campaigns failed largely because they could not recruit enough committed workers to collect signatures. This difficulty typically stymied initiatives without the backing of a major interest group’ (*ibid.*: 96). The requirement to collect signatures privately puts well-funded initiatives at an advantage. ‘Not surprisingly, a cottage industry has grown around the initiative device, providing services ranging from signature collection to direct mailing to professional campaign management’ (Kobach 1994: 107), and the average spending on

might have been enacted as normal laws, allowing the Swiss Constitution to become a hodgepodge of fundamental law mixed with routine legislation’.

initiative campaigns appears to be constantly rising (*ibid.*). The White Door procedure, by contrast, would avoid this problem in that the requirement of free signature collection would be limited to the first stage which has a very low threshold of success (in exchange for which the signatories would have to verify their signature at a local authority). The second stage would no longer require free collection but would be carried out at the ballot.

On a long-term average (1848-1993), ten per cent of those initiatives that made it to the referendum stage were ultimately successful (*ibid.*: 130). This seemingly low rate of success however conceals the enormous influence initiatives have on government: according to Kobach (1993: 104), the initiative is often used as a ‘bargaining chip’ by its sponsors in that its withdrawal is offered when bargaining for desired policy changes. In the twelve years from 1974-86, for example, a compromise was reached in exactly 50 per cent of cases, in that a counter-proposal was offered by the government in return for withdrawal (*ibid.*: 107). This shows the extent to which a formal decision-making device in the public sphere is able to set the agenda of the state and to force government to consider elements as ‘possible’ it would have otherwise discarded. The subject areas most frequently dealt with in Swiss citizens’ initiatives are energy, environment, traffic and transportation (Trechsel and Kriesi 1996: 193f.). It is hence a commonplace analysis today that much of the comparatively very progressive legislation in these fields (like the consistent prioritisation of public over individual traffic) in Switzerland is the direct or indirect result of the initiative device.

As the following comparison with other countries will show, the citizens’ initiative in Switzerland is undoubtedly the most powerful device of citizens’ legislation worldwide. Despite its clear strengths, however, it still suffers from those weaknesses that are inherent

to the initiative device and which limit its democratic and transformative potential: the lack of an intermediate ‘petition stage’ means that a large amount of signatures have to be privately collected in the initiative stage in order to create the necessary hurdle for the referendum. This, as we have seen, poses the problem of a ‘monetary’ filter that has anti-egalitarian implications on what subjects make it through to the referendum stage. The lack of the intermediate petition stage also means that there is only one phase of public debate, which limits the deliberative aspect of public debate and also supports the tendency that only such elements will make it onto the agenda that are already considered ‘possible’. Hence, the permeability between the intelligible and the possible is still limited.

The United States

Although citizen-initiated legislation does not exist on a national level in the United States, twenty-four of the fifty states have provisions for citizens’ initiatives (LeDuc 2003: 137). Western states like California and Oregon make the most extensive use of the device and the frequency of its use has increased dramatically in recent decades (*ibid.*: 138). Signature requirements for triggering a referendum range from a rather low two per cent (North Dakota) to a prohibitive 15 per cent (Wyoming) and average at 8 per cent of registered voters (Magleby 1994: 226). In the case of California, which ‘is, after Switzerland, the polity in which the largest number of issues has been submitted to direct decisions by the voters’ (Qvortrup 2005: 140), the hurdle is 5 per cent for a ‘statutory initiative’ (changing normal law) and 8 per cent for a constitutional initiative (amending the constitution). These signatures must be gathered within 150 days (Parkinson 2009). In a highly populated state like California this means that campaigners need to collect an average of 2,800 signatures a

day for a statutory initiative, as compared to just 180 signatures a day in the case of a Swiss initiative (Parkinson 2001: 409).⁶²

If the free collection of signatures is a demanding task already in Switzerland, it is a colossal one in California. It is thus of little wonder that money plays a decisive role in determining the fate of many initiatives in most US states providing for the device. According to David Magleby (1994: 243), 'it is now common for sponsors in California and other initiative states to retain professional petition circulators to help them acquire the necessary signatures'. Without such professional help it is in fact very difficult to get an initiative on to the ballot. This led to the development of what Magleby refers to as the 'initiative industry' (*ibid.*: 234 ff.), which turns over several million dollars every year by gathering signatures and organising entire campaigns. Those with the money to hire enough petition circulators will stand a better chance to get their initiative over the hurdle. This monetary filter is illustrated by the fact that 'two-thirds of all money spent on California initiatives in 1990 came from business interests, while only 12 percent came from individuals' (*ibid.*: 243). Magleby sums up that 'as a result, citizen participation in direct legislation in most states is confined largely to voting on the measures put on the ballot with the assistance of the initiative industry and to responding to the campaigns financed by a few individuals or groups willing to make large contributions' (*ibid.*: 245).⁶³ Other commentators go even further when they say that within the current US system 'political interests with sufficient funding and professional assistance can qualify nearly anything they want for the ballot' (Dubois and Feeney 1998: 102).

⁶² The threshold of 100,000 signatures in Switzerland translates into just about 1.75 per cent of the electorate, with campaigners having a generous 550 days (18 months) to collect them (Parkinson 2001: 410).

⁶³ A detailed analysis of the 'business of signatures' in many US states is provided in Ellis 2002: Ch. 3.

The existence of a well-established initiative industry that is readily used by wealthy interest groups is also responsible for the fact that in many states initiatives make it onto the ballot which do not reflect major public concerns but narrowly defined interests like the question whether or not to ‘permit nondentists to fit people with dentures’ (Magleby 1994: 240). As a consequence, voters in some states sometimes have to decide about two dozen or more such propositions on one single ballot (*cf.* LeDuc 2003: 151). This is a clear indication of a failure of the initiative device in US states to filter out and promote only those elements that are of general public concern. Private interests can virtually ‘buy’ a referendum decision due to the lack of an intermediate petition stage that would prevent the establishment of an initiative industry. Only if the aggregation of support for a petition is organised as a public procedure in that the petition can be signed at polling stations or online during a certain period of time (*e.g.* two weeks), can the democratic principle of equality be credibly sustained in citizens’ legislation and the ‘race to the ballot’ be organised on fair terms. The failure of the filtering effect in the US model at the same time constitutes a failure to provide the necessary discursive infrastructure (the ‘stepping stones’) for elements to stand the test of two consecutive phases of public debate and thus to have the chance to prove their discursive ‘possibility’ despite their grammatical ‘impossibility’. Voters have to decide about issues they have perhaps never really thought about before, and about issues they are not particularly interested in. The decisions are prone to be made on the basis of which side put more money in their advertisement campaign rather than on the outcome of public debate. This danger can be effectively minimised in the White Door model of citizens’ legislation, where the power of money still exists (like in all democratic elections) but is strictly limited in its effects.

New Zealand

The instrument of the citizens' initiative was introduced in New Zealand in 1993. Sponsors of an initiative have twelve months to gather the signatures of at least ten percent of registered electors. A referendum must then be held within one year of reaching the signature target (Parkinson 2001: 410). The signature target translates into a requirement to collect about 650 signatures a day (*ibid.*: 409). So far, the model seems familiar from the discussions above: a high signature hurdle means that a lot of effort has to be put into private collection activities. However, the case of New Zealand is different in that the outcome of the referendum is not binding to the government. In response to the referendum, the New Zealand government can indeed 'draft whatever legislation it chooses, either reflecting the wishes of the proponents or differing radically from them; or it can ignore the vote entirely' (*ibid.*: 413).

The 'toothless nature of the device' (*ibid.*: 415) has led critics to characterise it as 'an expensive, nationalized opinion poll' (*ibid.*: 413). Nevertheless, there were 25 initiatives launched in the years from 1993 to 2000, of which three have met the signature target and gone to the vote. Although even a 'nationalised opinion poll' might have some decisive influence on government (two of the three referendums were won by the initiatives and resulted in some form of government action on the proposed subjects), the New Zealand model of citizens' legislation does not fulfil the transformative requirement of leading to decisions in the public sphere. The decision still has to be made by the government, which means that the restraining effects of epistemic legitimacy on democratic transformation are not sufficiently suspended. In addition to this crucial flaw, the New Zealand model suffers from the lack of an intermediate petition stage, just like all other pure initiative models.

Italy

The Italian Constitution provides for the citizens' initiative device only in a 'negative' capacity, that is, as a mechanism to annul existing law by popular vote. The referendum can be triggered either by an initiative of 500,000 electors ('abrogative initiative') or by five regional councils ('abrogative referendum'). In the case of the initiative, signatures must be collected within a period of 90 days (Uleri 1996: 108). This translates into a collection rate of 5,556 signatures per day, which is by far the highest rate of all models compared so far. For the vote to be valid a majority of the electorate has to participate in it; the result of the vote is then binding. The Constitutional Court plays an important role in determining which initiatives are to be admitted to the ballot. 'Tax and budget laws, amnesties and pardons, and acts authorising the ratification of international treaties cannot be submitted to popular votes' (*ibid.*: 107), and the Court has ruled more than one-third of initiatives inadmissible in the period between 1970 and 1995 (*ibid.*). Within that period a total of 38 initiatives were admitted to the referendum vote; of these, 19 were successful, including an initiative to effectively ban the construction of nuclear power plants in Italy (*ibid.*: 113).⁶⁴

Despite its undeniable effect on Italian politics, the abrogative initiative has to be considered limited in its transformative potential. First of all, its exclusively abrogative nature means that its function of agenda-setting is strictly limited: it can only annul or repeal laws that were already enacted and thus react to an agenda that was established by the representative political system. Furthermore, the very high signature hurdle means that only very well-organised and well-funded organisations are usually able to be successful with an initiative. Due to the abrogative nature of the device and the strength of the party

⁶⁴ In June 2011, another successful referendum revoked plans by Prime Minister Silvio Berlusconi to erect several nuclear power plants across the country. With a voter turnout of 57% and a "Yes" vote of 90%, this was one of the most successful referendums in Italy's history (cf. <http://www.bbc.co.uk/news/world-europe-13741105>, accessed on August 14, 2011).

system in Italian politics, the initiative device has most frequently been used as a tool for parties to make opposition politics (*ibid.*: 117 ff.). Hence, the device has always been strongly connected to the parliamentary system, as a means of intervention and opposition. It has to be noted, however, that the public sphere in Italy is dominated by party politics rather than by classical extra-parliamentarian ‘civil society’ organisations. Hence, while the abrogative initiative is clearly an important democratic device within the Italian political system, it does not fulfil the transformative role as a ‘White Door’ to break the agentic deadlock in parliamentary democracy.

6.4.3.2. Citizens’ petitions

The citizens’ petition is generally a weak instrument of citizens’ legislation, as it lacks the decisive stage of the referendum. Citizens are thus dependent on their representative legislative bodies to take up their recommendations. The reason I include the citizens’ petition in this comparative analysis nevertheless is that the device has been recently introduced to the European Union as a means of citizens’ participation and that the Austrian model of the petition constitutes the basis for the first two stages of my White Door model, to which I simply added the referendum stage.⁶⁵

Austria

The direct democratic device of the *Volksbegehren* in Austria combines an initiative phase (private collection of signatures to start a petition) and the petition phase (public collection of signatures at the polling stations within a specified week). In its current version,⁶⁶ the

⁶⁵ Furthermore, Great Britain introduced the democratic device of the ‘e-petition’ in 2011, which allows citizens to collect signatures online for their cause. Once a petition exceeds the threshold of 100,000 signatures, it ‘will be eligible for debate in the House of Commons’ (<http://epetitions.direct.gov.uk/>). The House of Commons is however not obliged to debate the petition, which makes it a rather weak instrument.

⁶⁶ federal law no. 344/1973 as amended in federal law no. 13/2010

law stipulates that the initiative to start a petition must be signed by a number of registered voters that is at least as high as one per thousand of the population according to the most recent census (which would currently amount to about 8,300 signatures) (§ 3). Every signature must be verified by the respective local authority. The proponents of the initiative have a timeframe of up to two years to collect these verified signatures.

Once the required signatures are submitted to the Ministry of the Interior, the minister has to appoint a week in which the petition will be accessible at the polling stations for everyone to sign; this week must be taking place between eight weeks and six months after submission of the initiative (§ 5). In order to be successful, a petition must 'be supported by at least 100,000 eligible voters or by at least one-sixth of the electorate in each of three federal provinces, in which case the Nationalrat [the first chamber of parliament, D.H.] is constitutionally obliged to debate, and to reach a decision on, the issue of the petition' (Pelinka and Greiderer 1996: 21). It is, however, 'in no way obliged to pass the proposed legislation' (*ibid.*). As a consequence, the treatment of the petition in parliament often amounts to little more than a 'second class funeral' (Müller 1998: 23).

The great advantage of the Austrian *Volksbegehren*, in my view, is that the initiative phase (the private collection of signatures) is reduced to a minimum in organisational terms: proponents only need to mobilise their own political community to go to the local authority and sign the initiative. That way, no monetary filter and no big organisational hurdle is involved in getting a subject onto the public agenda. The hurdle requires determination and some organisational effort, but no petition circulators and campaigns managers. The second stage, then, is already organised by state authorities like an election: whoever wants to support the petition only needs to go to their polling station within the specified period

of eight days and sign it. This layout of the petition phase as being a public event of collecting signatures at the polls has the effect of creating a phase of public debate and discussion *as if* the petition were a referendum. The great disadvantage of the device is, of course, that it is not linked to a referendum stage and is therefore not much more than a relatively blunt tool of public agenda setting.

As a matter of fact, the Austrian constitution also provides for the democratic device of the referendum. However, as Müller (1998: 23) points out, ‘there is no direct way from the initiative [the citizens’ petition, D.H.] to the referendum’. The referendum can only be called by the government, and it is required by law in the case of a ‘total revision’ of the constitution or ‘to remove the federal president from office’ (*ibid.*: 22). What would be required, then, to complete the White Door mechanism I have proposed above, is simply to connect the citizens’ petition with a threshold of success that automatically triggers a referendum. This step was deliberately omitted by the authors of the Austrian constitution, however.

Of the 34 citizens’ petitions that were successfully initiated since 1945⁶⁷, 32 managed to take the hurdle of 100,000 signatures and were subsequently debated in parliament; only very few of them, however, have had any effect on legislation⁶⁸ (Pelinka and Greiderer 1996: 21). Ten petitions were signed by more than ten percent of the electorate and would thus have triggered a referendum under White Door rules. This is an average of one referendum in every 6.5 years. It is of course impossible to know how many more

⁶⁷ The Austrian ministry of the interior publishes an up-to-date list of all *Volksbegehren* and their results here: http://www.bmi.gv.at/cms/BMI_wahlen/volksbegehren/Alle_Volksbegehren.aspx

⁶⁸ Arguably because the petition instrument does not oblige parliament to take any action other than ‘debate’ the measure. Under White Door rules, every petition exceeding 10 per cent support would trigger a referendum while those remaining below that threshold might suffer a similar fate as Austrian ‘*Volksbegehren*’ of being debated but not acted upon.

initiatives would have been started with a White Door in place and to what extent voters would have decided differently under White Door rules.

European Union: the European Citizens' Initiative (ECI)

The European Citizens' Initiative (ECI) is a brand-new tool of direct democracy on the European level and indeed the first such device on a transnational scale worldwide. It is established in Article 11.4 of the Draft Treaty on European Union (amended by the Treaty of Lisbon), which reads as follows:

Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties. (Quoted in Efler 2010: 49)

The first thing to note here is that although the device is called an 'initiative' (which would usually lead to a referendum or another plebiscitary measure) it is in fact a *petition* to the European Commission (EC). The second fact to note is that the EC is in no way obliged to take legislative action on the petition, although many legal experts maintain that the device creates an implicit obligation to do so (Efler 2010: 50). Thirdly, even if the EC were to draft some legislation reflecting the petition, there is no obligation of the European Parliament and the European Council to pass that legislation.

The procedures and conditions required for the ECI were established in EU regulation no. 211/2011. As it turned out, these procedures do not establish any major hurdles for the organisers of an initiative. An initiative has to be registered with the EC before the collection of signatures can start. In order to do so, organisers have to 'form a citizens' committee of at least seven persons who are residents of at least seven different Member

States' (Art. 3 (2)) and submit a form providing information on 'the subject matter and objectives of the proposed citizens' initiative' (Art. 4 (1)). After an initiative is registered, the organisers have 12 months to collect one million signatures that must come from at least a quarter of the Member States, and which have to exceed some minimum numbers in each of these Member States (Art. 7).

Without any doubt, the ECI constitutes a considerable improvement of the role of civil society in European politics, at least in terms of agenda-setting. Non-governmental organisations, in particular, will use the ECI to mobilise popular support for their campaigns and to influence the political agenda on the European level. This opens up the grip of the agentic deadlock a little bit in that a political will beyond the realm of the strictly possible 'solutions' to managerial problems can be expressed, but the non-binding nature of the device (i.e. the lack of the operator of decision) will ultimately block any further rupturing effect of such expressions of a public will. The techno-administrative logic of governance will prevail, no matter how radical the petition. The ECI of course suffers also from all the problems of a classical citizens' initiative: the private collection of a large amount of signatures in a strict timeframe (with 2,740 signatures to be gathered per day) will mean that only very well-funded and well-organised initiatives will prevail (*cf.* Pichler 2010).

6.4.3.3. Three-stage citizens' legislation

The three-stage mechanism of citizens' legislation, of which the White Door model would also be an example, was first introduced in the German Weimar Republic (1919-33) and is nowadays practiced in several German states ('*Länder*') but not on the federal level. Let me examine the origins first.

Weimar Republic

The first stage of citizens' legislation in the Weimar Republic consisted in the submission of an initiative to the minister of the interior that was signed by at least 5,000 registered voters (Eder 2010: 86). If the minister approved the initiative, the petition phase was started in which the sponsors had to collect the signatures of ten per cent of the electorate within just 14 days, which amounted to roughly 4 million signatures (*ibid.*). The signatures were collected at the local authorities where voters could sign the petitions. However, it was the responsibility of the initiative's sponsors to provide the local authorities with the petition lists, which meant an enormous organisational effort. The sponsors also had to bear all related costs (*ibid.*). If the petition was successful, it had to be debated in parliament. In the case that parliament adopted the petition, the procedure was completed at that stage; but if it rejected or amended the petition or offered a counter-proposal, a referendum was triggered (*ibid.*). A referendum was decided by a simple majority. However, due to a controversial application of a constitutional rule, a quorum of 50 per cent of the electorate was required. During the 14 years of the Weimar Republic, eight initiatives for citizens' legislation were started, of which two made it to the referendum stage (*ibid.*: 87). Both of these failed, however, to reach the required quorum of voter turnout.⁶⁹

⁶⁹ The quorum of 50 per cent ultimately had an anti-democratic effect on the decision-making mechanism, as both Eder (2010: 87) and Paterna (1995: 32) point out: opponents of the proposed legislation called for a boycott of the vote instead of voting 'no', which exposed all those attending the vote as supporters and thus lifted the anonymity of the vote. As a result not only the opponents stayed away from the polling stations but also many supporters. This constitutes an enormous democratic problem, in particular under conditions of political polarisation. Recent research shows furthermore that 'paradoxically, participation quorums decrease electoral participation' (Aguar-Conraria and Magalhães 2010) and should therefore be considered an obstacle to rather than a safeguard for, the legitimacy of direct-democratic decisions.

Contemporary Germany

After 1945, the citizens' legislation was not reintroduced into the constitution of the newly formed *Bundesrepublik* – at least not on the federal level. However, all of the 16 German states (*Länder*) provide for a three-stage mechanism of citizens' legislation. I will not discuss the respective versions in any detail but it is worth noting that there are considerable differences between the states regarding the signature thresholds at the petition stage (ranging from 3.8 to 20 per cent) and time limits for collection (between 14 and 240 days) (Eder 2010: 109). The thresholds for the initiative stage range from 20,000 to 40,000 signatures in most cases (Paterna 1995: Ch. 5 and 7). In most states, signatures are collected privately at *both* the initiative and petition stages, meaning that the organisational and financial obstacles typical for citizens' initiatives are also effective at the petition stage. The device of citizens' legislation is frequently used in the German states, but the institutional 'filters' are very effective and only few initiatives make it to the referendum stage. Between 1990 and 2005, the process of citizens' legislation was initiated a 114 times, but only eleven initiatives made it to the popular vote (Eder 2010: 105). Several of those initiatives that did not result in a referendum were adopted by the states' parliaments. Of the eleven petitions that were voted on, seven were successful. Of the four unsuccessful referenda, three did not pass the respective participation *quorum* that is stipulated in the state constitutions; one referendum failed because the voters adopted the government's counter-proposal (*ibid.*: 177). The subject areas of the successful initiatives were democratic reforms and reforms of state institutions (4 cases), health policy (1), language reform (1), and communal banking (1) (*ibid.*: 178).

The differences between the procedures employed in the German *Länder* and in the White Door model can thus be summarised as follows: in the *Länder*, signatures for both the

initiative and the petition stages are typically collected privately and in many cases within rigid time constraints. The White Door, by contrast, requires that at the petition stage signatures are collected at the polls within one or two weeks so as to enable a fair assessment of support without creating any monetary or organisational hurdles for the proponents. All *Länder* furthermore stipulate either a participation quorum (of 50 per cent of total voters) or a quorum of assent (of between 15 and 50 per cent of total voters) (cf. Eder 2010: 188 for a detailed table). These quorums, according to Eder (2010: 186), significantly reduce the frequency of successful referenda and arguably curb the motivation of voters to participate in the process. The White Door, by contrast, does not stipulate any quorums.

In the last decade or so, the introduction of the three-stage citizens' legislation ('*Volksgesetzgebung*') also on the federal level was demanded not only by civil society actors but increasingly also by political parties. In 2002, the then ruling coalition of social democrats and greens proposed a constitutional law to introduce the *Volksgesetzgebung*.⁷⁰ The proposed threshold of the initiative was 400,000 signatures; that of the petition was 5 per cent of the electorate (roughly three million signatures) within a collection period of six months, which works out as a collection rate of more than 16,000 signatures per day. Needless to say that this would have been by far the highest collection rate of all the models discussed here, imposing very high organisational and financial barriers to the organisers of a petition campaign. The constitutional law was not passed, in the end, due to the resistance of the oppositional conservative block (CDU/CSU) whose approval would have been required for the constitutional super-majority.

⁷⁰ Drucksache 14/8503 des Deutschen Bundestages, vom 13.03.2002.

In 2010, the oppositional far-left party *Die Linke* submitted another proposal for the introduction of the *Volksgesetzgebung* on the federal level.⁷¹ This time, the thresholds were much lower, with 100,000 signatures at the initiative stage and one million for the petition stage, to be collected within six months. The proposal did not succeed, however.

6.5. The White Door reconsidered

I have argued thus far that the White Door mechanism is superior to the two-stage devices of the citizens' initiative and the citizens' petition in important respects: it combines the two in such a way as to eliminate their respective weaknesses. The weaknesses of the citizens' initiative are eliminated in that the bulk of the signature collection activity is carried out at the polling stations instead of by private petition circulators, thus eliminating the undemocratic monetary and organisational filter of signature collection. It also provides for two public stages of will-formation and thus for two consecutive phases of public debate and discussion. The weakness of the citizens' petition is eliminated by adding the all-important referendum stage to the otherwise powerless petition stage.

However, the White Door mechanism is also superior to the German model of citizens' legislation for pretty much the same reasons it is superior to the citizens' initiative: the German model in fact consists of two consecutive citizens' initiatives with ascending thresholds that lead to a referendum. This means that the second stage generates the exact same problems as a Swiss or Californian citizens' initiative: the need for the free collection of an enormous amount of signatures in a rather short period of time. The 'Austrian' solution of organising the petition phase like an election or a referendum and to grant the electorate one or two weeks to sign the petition eliminates that problem and also turns the

⁷¹ Drucksache 17/1199 des Deutschen Bundestages, vom 24.03.2010.

petition phase into a collectively experienced public event that is preceded by intensive debate and discussion. What makes the White Door special is that the petition phase is a proper stepping stone for intelligible elements to become semi-possible through public scrutiny and approval. This crucial quality of the intermediate stage is severely limited in the German model and inexistent in the two-stage models of citizens' legislation.

Perhaps not surprisingly, a broad coalition of civil society organisations in Austria is proposing a model of citizens' legislation that is very close to my White Door model.⁷² The two models agree on the main institutional questions, but are nevertheless set apart by a few important differences which are worth spelling out. The civil society model proposes an initiative stage with a threshold of 30,000 signatures that are to be collected freely. The White Door model opts for signatures representing one per thousand of the population (roughly 8,300 signatures in 2011), which have to be verified by local authorities. An important difference here is also the fact that in the civil society model, the initiative already functions as a 'petition' that has to be debated by parliament. This is, in my view, too early a stage for a petition, especially with such a low threshold in place. That is why, in the White Door model, the function of the petition is reserved to the second stage. The civil society model then proposes a petition stage at which at least 300,000 signatures have to be collected within a week at the polling stations. This stage has in fact no petitioning function but serves solely to determine whether or not a referendum is to be triggered. The White Door model instead stipulates a threshold of ten per cent of the electorate (roughly 630,000 signatures in 2011) for a referendum and two per cent (roughly 130,000 signatures in the case of Austria) for a mandatory debate in parliament. Both models finally agree that the referendum stage does not require a quorum of voter participation and is decided by a

⁷² see <http://www.volksgesetzgebung-jetzt.at>

simple majority of the votes. There are two main points of disagreement I have with the civil society model in Austria. One is the fact that a petition to parliament is triggered by as few as 30,000 freely collected signatures, which would make the petition device inflationary and create an undesirable overload of parliament. The other regards the low threshold at the second stage, which would mean that too many proposals would have to be decided in a referendum, and this would increase the danger of more or less random decisions that are not preceded by a corresponding build-up of public support over time.

The White Door is certainly not the only way to transcend the limits to change in liberal democracy – there is not even any guarantee for it to actually succeed in breaking the agentic deadlock that cripples today's liberal democracies. The aim of this Chapter – and indeed this thesis – was instead to start a debate about 'enacting' democratic transformation, about the institutions and procedures, devices and mechanisms the democracies of the future will need to rise to the challenge of enabling democratic societal change. This debate should be about democratic innovation, about experiments of institutional design and about establishing a balance of political agency that allows the state, the market and civil society to contribute in their own generic ways to societal change and becoming. This debate should, however, be accompanied by the courage to reform our liberal democratic systems, to amend constitutions and to try out new models of political decision-making. Without that courage, the debate will remain an academic one and the limits to change will remain as tight and suffocating as ever.

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